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NEW DELHI, SATURDAY, SEPTEMBER 30, 1989/ASVINA 8, 1911

इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—संख्या 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

(इस संकालन को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सार्विधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

मई दिल्ली, 31 जनवरी, 1989

आयकर

का. नं. 2391.—इस कार्यालय की दिनांक 18/2/1988 की
अधिसूचना सं. 7773 (फा. सं. 203/34/88-आ. कर नि II) के अनुकां
में, मर्व माध्यारण की जनकारी के लिए एन्ड्रूड्स यह प्रधिमूलित किया
जाता है कि विहित प्राधिकारी प्रथमि वैज्ञानिक और शोधोरिक प्रनुसंधान
विभाग, नई दिल्ली, ने निम्नलिखित मंस्त्रा को आयकर नियम, 1962
के नियम 6 के माध्य पठित आयकर अधिनियम, 1961 की वारा 35 की
उत्तरधारा (i) के खंड '(ii)' (तीनों एक शेरों) के प्रयोजनों के लिए "संगम"
प्रवर्द्धी के अधीन निम्नलिखित गतीय पर. अनुमोदित किया है:—

(i) यह कि उक्त संगम प्रपतों वैज्ञानिक प्रनुसंधान संबंधी कार्यकलालयों
की वापिक विवरणी, विहित प्राधिकारी को प्रत्येक विनीय वर्ष के संबंध में
प्रान्तिक 31 मई तक ऐसे प्रपतों में प्रस्तुत करेना जो इस प्रयोजन के लिए
अधिकारित किया जाए और उसे सूचित किया जाए।

(ii) यह कि उक्त संगम प्रपतों वैज्ञानिक प्रनुसंधान संबंधी कार्यकलालयों
की वापिक विवरणी, विहित प्राधिकारी को प्रत्येक विनीय वर्ष के संबंध में
प्रान्तिक 31 मई तक ऐसे प्रपतों में प्रस्तुत करेना जो इस प्रयोजन के लिए
अधिकारित किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त संगम अपनी पूर्ण आप तथा व्यापक दस्तावेज़ द्वारा
अपने संगीर्वादी वापिक सेलों पर तथा अपनी परिसंगतियों, वैनशारियों

दस्तावेज़ द्वारा प्रस्तुत-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित
प्राधिकारी के पास प्रस्तुत करेगा तथा इन वस्तावेजों में से प्रत्येक की एक-
एक प्रति केन्द्रीय प्रलक्षण कर दीज़, नई दिल्ली, आयकर महानिदेशक (कूट)
कलकत्ता तथा संबंधित आयकर प्रायुक्त के पास भेजेगा।

(iv) यह कि उक्त संगम केन्द्रीय प्रत्यक्ष कर दीज़, वित्त मंत्रालय
(राजस्व विभाग), नई दिल्ली तथा आयकर महानिदेशक (कूट), कलकत्ता
को अनुमोदन की समाप्ति से तीन माह पूर्व अलिंगित अवधि बढ़ाने के लिए
आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने
वाले आवेदन पत्रों को रद्द कर दिया जायेगा।

संगम

"नपेदिक प्रनुसंधान केन्द्र

श्री के. जे. मेहता दी. बी.

हॉमिटल, अमरगढ़-364210"

यह अधिसूचना दिनांक 1-4-88 से 31-3-1989 तक की अवधि के लिए
प्रभावी है।

[प. 8172 (फा. सं. 203/282/88-आ. कर नि.-[I])]

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 31st January, 1989

INCOME-TAX

S.O. 2391.—In continuation of this Office Notification No.
7773 (F. No. 203/34/88-ITA.II) dated 18-2-1988 is hereby
notified for general information that the Institution mentioned

below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category subject to the following conditions :—

- (i) That Tuberculosis Research Centre, Shri K. J. Mehta T. B. Hospital, Amargadhp-10, Saurashtra will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGTT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGTT (Exemption) Calcutta 3 months in advance before the expiry of the approval for further extension. Application received after the date of expiry of approval are liable to be rejected.

ASSOCIATION

Tuberculosis Research Centre, Shri K. J. Mehta T. B. Hospital, Amargadhp-364210

This Notification is effective for a period from 1-4-88 to 31-3-1989.

[No. 8172 (F. No. 203/282/88-ITA-II)]

नई दिल्ली, 13 फरवरी, 1989

का. आ. 2392.—इस कार्यालय की दिनांक 24-9-87 की अधिकृता सं. 7556 (फा. सं. 203/192/86-आ. कर. नि. II) के अनुक्रम में, भैरवाधारण की जानकारी के लिए एवं द्वारा यह अधिकृतित किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर विभाग, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (i) के खंड (ii) (पैसेस/एक/दो) के प्रयोजनों के लिए "इंस्टीट्यूशन" प्रबंध के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है :—

(i) यह कि भारतीय विद्या भवन, बम्बई प्रपते वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक् लेखा रखेगा।

(ii) यह कि उक्त इंस्टीट्यूट अपने वैज्ञानिक अनुसंधान संबंधी कार्यकार्यों की वार्षिक विवरणी, विहित प्राधिकारी को प्रयोक्त विनीय वर्ष के संबंध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो उस प्रयोजन के लिए अधिकृतित किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त इंस्टीट्यूट अपनी कुल आय तथा अय दर्शि इए प्रपते संपर्कित वार्षिक लेखों की तथा अपनी परिमाणिया, देनशास्त्रीय वास्तविकता की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केवलीय प्रत्यक्ष कर बोइ, नई दिल्ली, आयकर गहनिदेशान (दृष्ट), कलकत्ता राज्यकार्यालय तथा संबंधित आयकर अधिकृत के पास भेजेगा।

(iv) यह कि उक्त इंस्टीट्यूट वैज्ञानिक प्रत्यक्ष कर बोइ, विद्या मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आय कर महनिदेशान (दृष्ट), कलकत्ता को अनुमोदन की समाप्ति से पूर्व अतिरिक्त अवधि बढ़ाने के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एम्प्रेसिएशन

भारतीय विद्या भवन, के. एम् मुंशी मार्ग, बम्बई-7

यह अधिकृता दिनांक 1-4-88 से 31-3-89 तक की अवधि के लिए प्रभावी है।

[म. 8175 (फा. सं. 203/285/88-आ. कर. नि. II)]

New Delhi, the 13th February, 1989

S.O. 2392.—In continuation of this Office Notification No. 7556 (F. No. 203/192/86-ITA.II) dated 24-9-87 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category Institution subject to the following conditions :—

- (i) That Bhartiya Vidya Bhavan, Bombay will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGTT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- (iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGTT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Bhartiya Vidya Bhavan, K. M. Munshi Marg, Bombay-7

This Notification is effective for a period from 1-4-88 to 31-3-1989.

[No. 8175 (F. No. 203/285/88-ITA-III)]

नई दिल्ली, 14 फरवरी, 1989

का. आ. 2393.—इस कार्यालय की विनांक 3-8-87 की अधिकृता सं. 7450 (फा. सं. 203/298/86-आ. कर. नि. II) के अनुक्रम में, यह भारतीय विद्या भवन, के जानकारी के लिए एवं द्वारा यह अधिकृतित किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर विभाग, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (i) के खंड (ii) (पैसेस/एक/दो) के प्रयोजनों के लिए "एम्प्रेसिएशन" प्रबंध के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है।

(i) यह कि इंस्टीचूट भाफ रोड ट्रांसपोर्ट, मद्रास-600113 अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक् लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के संबंध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिकृत किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा अप्य दर्शाते हुए अपने संपर्कीयता वार्षिक लेखों की तथा अपनी परिसंपत्तियां, देनवारिया दर्शाते हुए-तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिदेशक (कूट), कलकत्ता तथा संबंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आय कर महानिदेशक (कूट), कलकत्ता की अनुमोदन की समाप्ति से पूर्व अंतरिक्ष अवधि बढ़ान के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को इह कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

इंस्टीचूट भाफ रोड ट्रांसपोर्ट, तारामती, मद्रास-600113

यह अधिसूचना विनाक 1-4-1988 से 31-3-89 तक की अवधि के लिए प्रभावी है।

[स. 8178 (फा. स. 203/85/88-आयकर नि. II)]

New Delhi, the 14th February, 1989

S.O. 2393.—In continuation of this Office Notification No. 7430 (F. No. 203/298/86-ITA.II) dated 3-8-87 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purpose of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category Association subject to the following conditions:—

- That Institute of Road Transport, Madras-600113 will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets and liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Institute of Road Transport, Taramani, Madras-600113

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8178 (F. No. 203/85/88-ITA-II)]

का. आ. 2394.—इम कार्यालय की विनाक 26-12-1986 की अधिसूचना सं. 7072 (फा. सं. 203/108/86-आ. कर नि. II) के प्रत्युम में, सर्व साधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी अवधि वैज्ञानिक और शोधित की अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम, 1962 के साथ पठित आयकर अधिनियम, 1961 की आय 35 की उप-धारा (i) के वर्ष (i) प्रति/एक/दो) के प्रयोजनों के लिए “एसोसिएशन” प्रबन्ध के प्रधीन निम्नलिखित शर्तों पर अनुमोदित किया है:—

(i) यह कि ब्रीच कंडी मेंटोकल रिसर्च सेंटर, बम्बई अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक् लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के संबंध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिकृत किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा अप्य दर्शाते हुए अपने संपर्कीयता वार्षिक लेखों की तथा अपनी परिसंपत्तियां, देनवारिया दर्शाते हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिदेशक (कूट), कलकत्ता तथा संबंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिदेशक (कूट), कलकत्ता की अनुमोदन की समाप्ति से पूर्व अंतरिक्ष अवधि बढ़ान के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों का इह कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

ब्रीच कंडी मेंटोकल रिसर्च सेंटर, बम्बई

यह अधिसूचना विनाक 1-4-88 से 31-3-89 तक की अवधि के लिए प्रभावी है।

[स. 8179 (फा. स. 203/306/88-आयकर नि. II)]

S.O. 2394.—In continuation of this Office Notification No. 7072 (F. No. 203/108/86-ITA.II) dated 26-12-1986 is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category “Association” subject to the following conditions:—

- That Breach Candy Medical Research Centre, Bombay will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.

- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets and liabilities with a copy of each of these documents to the Central Board of Direct Taxes New Delhi DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Breach Candy Medical Research Centre, Bombay

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8179 (F. No. 203/306/88-ITA-II)]

नई दिल्ली, 15 फरवरी, 1989

(i) यह कि भारतीय पोटाश अनुसंधान संस्थान, सैक्टर 19डी, बुद्धगिरि दिल्ली गुग्गव रोड, गुग्गांव-122001 अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पथक लेखा रखेगा।

(ii) यह कि उन्हें संस्था प्रपत्ते वैज्ञानिक प्रत्युपात्ति संबंधी कार्य-कलापों की वाधिक विवरणी, विहित प्राविकारी को प्रत्येक विस्तीर्य वर्ष के संबंध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्तों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अविवित किया जाए और उसे सुनित किया जाए।

(iii) यह कि उक्त संस्था अपनी कुल अर्थ तथा व्यय दर्शाते हुए अपने संस्थानित वार्षिक लेखों की तथा अपनी परिसंपत्तियाँ, देनदारियाँ दर्शाते हुए तुलना-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई वित्ती, धायकर महानिर्देशक (छठ), कवकत्ता तथा संबंधित आयकर आयकर के पास भेजेगा।

(iv) यह कि उक्त संस्था केन्द्रीय प्रस्त्रेश कर दोई, विस्त मंद्रालय (राजस्व विभाग), नई विल्ली तथा अय कर महानिवेशक (छूट), कलकत्ता को भ्रमोदेश की समाप्ति से पूर्व प्रतिरक्षित अवधि बढ़ाने के लिए आवेदन करेगा। मनुषीदेश की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को रह कर दिया जाएगा।

ਇੰਡੀਅਧਿਕਾਰ

भारतीय पोटाश अमृसंधार मंस्थाम, मैश्टर 19डी, दुधाहेड़ा, दिल्ली
गडगांव रोड, गडगांव-122001

यह प्रधियुक्तना विनांक 1-4-88 से 31-3-1989 तक की प्रवधि के सिए प्रभावी है।

[सं. 8193 (फा. सं. 203/166/88-आपकर. नि.-II)]

(INCOME-TAX)

New Delhi, the 15th February, 1989

S.O. 2395.—In continuation of this Office Notification No. 7814 (F. No. 203/292/86-11A.II) dated 29-3-1988 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category Institution subject to the following conditions:—

- (i) That Potash Research Institute of India, Sector 19-D, Dundahera, Delhi Gurgaon Road, Gurgaon-122001 will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Institution will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Institution will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- (iv) That the said Institution will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Potash Research Institute of India, Sector-19, Dundahera,
Delhi Gurdgaon Road, Gurgaon-122001

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8183 (F. No. 203/166/88-ITA-II)]

का.आ. 2396 :- इस कार्यालय की दिनांक 13-11-1987 की प्रधिसूचना से, 7615 (का.सं. 203/157/87/पा.कर नि. II) के अनुसार में, सर्व-साधारण की जानकारी के लिए एन्डवारा यह प्रधिसूचित किया जाता है कि विहित प्राधिकारी प्रथम वैष्णवित और ग्रीष्मोगिक अत्यंत्रान, विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम, 1962 के नियम 6 के साथ पठित आयकर प्रधिनियम, 1961 की धारा 35 की उप-धारा (i) के खण्ड (ii) (पंतीस/एक/दो) के प्रयोजनों के लिए "एसोसिएशन" प्रबंध के अधीन निम्नलिखित भांतों पर अनुमोदित किया है :

(i) यह कि जय रिसर्च फाउण्डे यन, पो. ओ. वलवडा, जिला वलवडा, गुजरात अपने वैज्ञानिक प्रनुसंधान के लिए व्यवस्था द्वारा प्राप्त राशियों का प्रथक लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने ईंगानिक ग्रन्तिधारा संबंधी कार्ड-कलापों की वार्षिक विवरणी, विविध प्राधिकारी को प्रत्येक विवोप वर्ष के संबंध में प्रति वर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिक कष्टित किया जाए और उसे सुनित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा व्यय नक्ति हुए अपने संगठित वायिक लेखों को तथा अपनी परिसम्पत्ति, बैनदारियों दराते हुए तुलनात्मक का एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक का एक-एक प्रति केंद्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिवेशक (छट), कलकत्ता तथा संबंधित आयकर भावुकत के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केंद्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छट), कलकत्ता को अनुमोदन की समाप्ति से पूर्व प्रतिरिक्षित अवधि बढ़ान के लिए आवेदन करेगा। अनुमोदन का समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों का रद्द कर दिया जाएगा।

एसोसिएशन/एसोसिएशन

जयरत्न काउंसिल सासांधा, गुजरात।

यह अधिसूचना विनाक 1-4-88 से 31-3-89 तक को अवधि के लिए प्रभावी है।

[स. 8182(का.स. 203/125-88-आयकर नि.-II)]

(INCOME-TAX)

S.O. 2396.—In continuation of this Office Notification No. 7615 (का.स. 203/15/87-11A.II) dated 13-11-1987 it is hereby notified for general information that the institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category Association subject to the following conditions:—

- That Jai Research Foundation, P.O. Valvada Distt., Valsad, Gujarat will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Jai Research Foundation Society, Gujarat

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8182 (F. No. 203/125/88-ITA-II)]

का.प्रा. 2397 : इस कामीलय की दिनांक 28-11-1986 की अधिसूचना सं. 7023 (का.स. 203/156/86-आयकर नि.-II) के

अनुक्रम में, सर्वसाधारण की जानकारी के लिए एसद्वारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी अवृत्त वैज्ञानिक और प्रौद्योगिक अनुसंधान विभाग, नई दिल्ली ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की घारा 35 की उपधारा (i) के अण्ड (ii) (वैज्ञानिक/दो) के प्रयोगों के लिए "एसोसिएशन" प्रबन्ध के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है:

(i) यह कि नेशनल एंड साईटिक रिसर्च फाउण्डेशन, कलकत्ता अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा आयकर राशियों का पृथक लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान संबंधी कार्य-कालाधीनों की वायिक विवरणी, विहित प्राधिकारी को प्रत्येक विवरणी वर्ष के संबंध में प्रति वर्ष 31 मई तक दिए प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोग के लिए अधिक कठित किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा व्यय नक्ति हुए अपने संगठित वायिक लेखों को तथा अपनी परिसम्पत्ति, बैनदारियों दराते हुए तुलनात्मक का एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक का एक-एक प्रति केंद्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिवेशक (छट), कलकत्ता तथा संबंधित आयकर भावुकत के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केंद्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छट), कलकत्ता को अनुमोदन की समाप्ति के पूर्व आंतरिक अवधि बढ़ाने के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

एसोसिएशन

नेशनल एंड साईटिक रिसर्च फाउण्डेशन, 23/24, राधा बाजार स्ट्रीट, कलकत्ता-1

यह अधिसूचना विनाक 1-4-88 से 31-3-89 तक को अवधि के लिए प्रभावी है।

[स. 8185(का.स. 203/71-88-आयकर नि.-II)]

S.O. 2397.—In continuation of this Office Notification No. 7023 (का.स. 203/156/86-11A.II) dated 28-11-1986 it is hereby notified for general information that the institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions:—

- That National Agricultural and Scientific Research Foundation, Calcutta will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets

liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.

(iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

ASSOCIATION

National Agricultural and Scientific Research Foundation,
23/24 Radha Bazar Street, Calcutta-1

This Notification is effective for a period from 1-4-88 to 31-3-1989.

[No. 8185 (F. No. 203/71/88-ITA-II)]

नई दिल्ली 21 फरवरी, 1989

का.पा. 2398 :—इस कार्यालय की दिनांक 11-6-1987 की प्रधिसूचना सं. 7339 (का.सं. 203/275/86-आ.कर.नि.-II) के अनुक्रम में, सर्वसाधारण की जानकारी के लिए एतद्वारा यह प्रधिसूचित किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के साथ पठित आयकर प्रधिनियम, 1961 की धारा 35 की उपधारा (i) के खण्ड (ii) (पैंतीस/एक/दो) के प्रयोजनों के लिए “एसोसिएशन” पद्धार्ग के अधीन निम्नलिखित गतों पर अनुमोदित किया है :

(i) यह कि एसपी रिसर्च इंस्टीट्यूट, बम्बई अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पूर्ण लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान संबंधी कार्य-कलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक विस्तृय रूप से संबंध में प्रति वर्ष 31 मई तक ऐने प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए प्रथिक कथित किया जाए और उसे सुचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय संथा व्यवहारिया दरसाते हुए अपने संपरिवित वार्षिक लेखों की तथा अपनी परिस्थितियां, देवदारियां दरसाते हुए तुलनात्मक की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन वस्तावेजों में से प्रत्येक की एक-एक प्रति केवल व्यवहारिय प्रत्यक्ष कर बोहे, नई दिल्ली, आयकर महानिवेशक (छट), कलकत्ता नथा संघर्षित आयकर आयकृत के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केवल व्यवहारिय प्रत्यक्ष कर बोहे, विस मन्त्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छट), कलकत्ता को अनुमोदन की समाप्ति से पूर्व अतिरिक्त प्रबंधि मद्दामे के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

एसपी रिसर्च इंस्टीट्यूट आवर्ष हाउसिंग सोसाइटी, प्लाट नं. 1 क्रास रोड, नं. 2 (मलाड) (पर्स.) बम्बई-400064

यह प्रधिसूचना दिनांक 1-4-88 से 31-3-89 तक की अवधि के लिए प्रभावी है।

[सं. 8196 (का.सं. 203/13/89-आ.कर.नि.-II)]

New Delhi, the 21st February, 1989

S.O. 2398.—In continuation of this Office Notification No. 7339 (F. No. 203/275/86-ITA-II) dated 11-6-1987 it is hereby notified for general information that the institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purpose of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category “Association” subject to the following conditions :—

- (i) That Aspee Research Institute, Bombay will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Aspee Research Institute Adarsh Housing Society, Plot No. 1 Cross Road No. 2, Malad (W), Bombay-400064.

This Notification is effective for a period from 1-4-88 to 31-3-1989.

[No. 8196 (F. No. 203/13/89-ITA-II)]

नई दिल्ली, 23 फरवरी, 1989

का.पा. 2399 :—इस कार्यालय की दिनांक 1-7-1986 की प्रधिसूचना सं. 6784 (का.सं. 204/78/85-आ.कर. नि.-II) के अनुक्रम में, सर्वसाधारण की जानकारी के लिए एतद्वारा यह प्रधिसूचित किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर प्रधिनियम, 1961 की धारा 35 की उपधारा (i) के खण्ड (ii) (पैंतीस-एकदो) के प्रयोजनों के लिए “संगठन” पद्धार्ग के अधीन निम्नलिखित गतों पर अनुमोदित किया है :

(i) यह कि एसोमिएटिड इलेक्ट्रॉनिक्स रिसर्च काउंसिल, नई दिल्ली अपने वैज्ञानिक अनुसंधान संबंधी कार्य-कलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक विवरणी वर्ष के संबंध में प्रति वर्ष 31 मई तक ऐने प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिक कथित किया जाए और उसे गृहित किया जाए।

(ii) यह कि उक्त संगठन अपने वैज्ञानिक अनुसंधान संबंधी कार्य-कलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक विवरणी वर्ष के संबंध में प्रति वर्ष 31 मई तक ऐने प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिक कथित किया जाए और उसे गृहित किया जाए।

(iii) यह कि उक्त मंगठन अपनी कर आय तथा व्यय दर्शाते हुए अपने संपरीक्षित वापिक लेखों की तथा अपनी परिसंपत्तियाँ, देनदारियाँ दर्शाते हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति के केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिवेशक (छट), कलकत्ता तथा संबंधित आयकर प्राप्तकर्ता के पास भेजेगा।

(iv) यह कि उक्त संगठन केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छट), कलकत्ता की अनुमोदन की समाप्ति से पूर्व अतिरिक्त अवधि बढ़ाने के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख से पश्चात प्राप्त दोनों दातानों आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

एसोसिएटिड इलेक्ट्रॉनिक्स रिसर्च फाउण्डेशन, ई/10/4, ओखला इण्डस्ट्रियल एरिया, फैज-III, नई दिल्ली।

यह प्रधिसूचना दिनांक 1-4-1988 से 31-3-1989 तक की अवधि के लिए प्रभावी है।

[सं. 8206 (फा. सं. 203/182/88, आ कर नि.-II)]

New Delhi, the 23rd February, 1989

S.O. 2399.—In continuation of this Office Notification No. 6784 (F. No. 203/78/85-ITA-II) dated 1-7-86 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions:—

- That Associated Electronics Research Foundation, New Delhi will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Associated Electronics Research Foundation, D-10/4, Okhla Industrial Area, Phase-II, New Delhi-20

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8206 (F. No. 203/182/88-ITA-II)]

नई दिल्ली, 27 फरवरी, 1989

का.प्रा. 2400—इस कार्यालय की विनांक 3-1-1986 की प्रधिसूचना में, 6506 (फा.सं. 203/41/83-आ.का.नि.-II) के अनुसार में, सर्वे माधारण की जातकारी के लिए प्रत्यक्ष द्वारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के लियम 6 के माध्यम प्राप्त आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खण्ड (ii) (पैकिस/एक/ट्रो) के प्रयोजनों के लिए "इंस्टीच्यूट" प्रबंग के अधीन निम्नलिखित संस्था पर अनुमोदित किया है—

(i) यह कि आल ईंडिया आफ मेडिकल साइंसेज, असारी नगर, नई दिल्ली अपने वैज्ञानिक अनुसंधान के लिए इस द्वारा प्राप्त राशियों का पृष्ठक देखा रखेगा।

(ii) यह कि उक्त इंस्टीच्यूट अपने वैज्ञानिक अनुसंधान संबंधी कार्यक्रमों की वापिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के मंडिय में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिक कर्तव्य किया जाए और उसे सुनित किया जाए।

(iii) यह कि उक्त इंस्टीच्यूट अपनी कुल आय तथा व्यय दर्शाते हुए अपने संपरीक्षित वापिक लेखों की तथा अपनी परिसंपत्तियाँ, देनदारियाँ दर्शाते हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिवेशक (छट), कलकत्ता तथा संबंधित आयकर प्राप्तकर्ता के पास भेजेगा।

(iv) यह कि उक्त इंस्टीच्यूट केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छट), कलकत्ता, को अनुमोदन की समाप्ति से पूर्व अतिरिक्त अवधि बढ़ाने के लिए आदेश करेगा। अनुमोदन की समाप्ति की तारीख तक प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

आल ईंडिया इंस्टीच्यूट आफ मेडिकल साइंसेज, नई दिल्ली।

यह प्रधिसूचना दिनांक 1-4-88 से 31-1-89 तक की अवधि के लिए प्रभावी है।

[सं. 8214 (फा.सं. 203/14/88-प्रायकर नि.-II)]

New Delhi, the 27th February, 1989

S.O. 2400.—In continuation of this Office Notification No. 6556 (F. No. 203/41/83-ITA-II) dated 3-1-1986 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Institution" subject to the following conditions:—

- That All India Institute of Medical Sciences, Ansari Nagar, New Delhi will maintain a separate account of the sums received by it for scientific research.
- That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.

(iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.

(iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

All India Institute of Medical Sciences, New Delhi

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8214 (F. No. 203/14/89-ITA-II)]

का.आ. 2401:—इस कार्यालय की दिनांक 18-2-1988 की अधिसूचना सं. 7775. (का.सं. 203/16/87-आ.का.नि-II) अनुक्रम में, सर्व साधारण की जानकारी के लिए एन्ड्रारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम 1961 की धारा 35, की उप-धारा (i) के खण्ड (ii) (पैतीस/एकदो) के प्रयोजनों के लिए “एसोसिएशन” प्रबंग के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है:—

(i) यह कि विट्टल मालया साइटिकिल रिसर्च फाउन्डेशन, बंगलौर अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपनी कूल आय तथा व्यय दर्शते हुए अपने संपरीक्षित वार्षिक लेखों की तथा अपनी परिसंपत्तियां, देनदारियां दर्शते हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दसतावेजों में से प्रत्येक को एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड नई दिल्ली, आयकर महानिदेशक (छूट), कलकत्ता तथा संबंधित आयकर आयुक्त के पास भेजेगा।

(iii) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (शास्त्रविभाग), नई दिल्ली तथा आयकर महानिदेशक (छूट), कलकत्ता को अनुपोदत्त की समाजिक से पूर्व अनियन्त्रित अवधि बढ़ाने के लिए आवेदन करेगा। अनुपोदत्त की समाजिक नीतियों के पश्चात् प्राप्त होने वाले आवेदन पत्रों की रद्द कर दिया जाएगा।

(iv) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (शास्त्रविभाग), नई दिल्ली तथा आयकर महानिदेशक (छूट), कलकत्ता को अनुपोदत्त की समाजिक से पूर्व अनियन्त्रित अवधि बढ़ाने के लिए आवेदन करेगा। अनुपोदत्त की समाजिक नीतियों के पश्चात् प्राप्त होने वाले आवेदन पत्रों की रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

विट्टल मालया साइटिकिल रिसर्च फाउन्डेशन, 24, ग्रांट रोड बंगलौर-1
सह संविधान दिनांक 1-4-1988 से 31-3-1989 तक की अवधि
के लिए उपलब्ध है।

[नि. 8211 (का.सं. 203/219/88-आयकर नि.-II)]

S.O. 2401.—In continuation of this Office Notification No. 775 (F. No. 203/16/87-14A.II) dated 18-2-1988 it is hereby notified for general information that the institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category “Association” subject to the following conditions:—

(i) That Vittal Mallya Scientific Research Foundation, Bangalore will maintain a separate account of the sums received by it for scientific research.

(ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.

(iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.

(iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Vittal Mallya Scientific Research Foundation, 24, Grant Road, Bangalore-1

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8211 (F. No. 203/219/88-ITA-II)]

का.आ. 2402:—इस कार्यालय की दिनांक 16-12-1987 की अधिसूचना सं. 7664 (का.सं. 203/28/87-आ.का.नि-II) अनुक्रम में, सर्व साधारण की जानकारी के लिए एन्ड्रारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (i) के खण्ड (ii) (पैतीस/एकदो) के प्रयोजनों के लिए “इंस्टीट्यूशन” प्रबंग के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है:—

(i) यह कि कामायनी उद्योग केन्द्र सोसाइटी, पुणे अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

(ii) यह कि इंस्टीट्यूट अपने वैज्ञानिक अनुसंधान संबंधी कार्यक्रमों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के संबंध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिक कथित किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त इंस्टीट्यूट अपनी कूल आय तथा व्यय दर्शते हुए अपने संपरीक्षित वार्षिक लेखों की तथा अपनी परिसंपत्तियां, देनदारियां दर्शते हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दसतावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिदेशक (छूट) कलकत्ता तथा संबंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त इंस्टीच्यूट केन्द्रीय प्रत्यक्ष कर दोडे, विस मंत्रालय, (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छूट), कलकत्ता को अनुमोदन की समर्पित से पूर्व अतिरिक्त अवधि देने के लिए आवेदन करेगा। अनुमोदन की समर्पित की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

कामयनी उद्योग केन्द्र सोसाइटी, 1187/64 शिवाजी नगर, पुणे-411005.

यह अधिसूचना दिनांक 1-4-88 से 31-3-89 तक की अवधि के लिए प्रभावी है।

[म. 8213 (फा.सं. 203/309/88-आयकर नि.-II)]

S.O. 2402.—In continuation of this Office Notification No. 7664 (F. No. 203/28/87-ITA.II) dated 16-12-1987 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Institution" subject to the following conditions :—

- (i) That Kamayani Udyog Kendra Society, Pune will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Institute will submit to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- (iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Kamayani Udyog Kendra Society, 1187/64, Shivaji Nagar, Pune-411005

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8213 (F. No. 203/309/88-ITA. (II)]

का.आ. 2403.—इस कार्यालय की दिनांक 6-10-1986 की अधिसूचना म. 6953 (फा.सं. 208/213/86-आयकर नि.-II) के अनुक्रमण में, सर्व मात्रात्मक की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि कि विहित प्राधिकारी अर्थात् वैज्ञानिक और आद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित मंस्तक को आयकर नियम 1962 के नियम 6 के माध्यम स्थान आयकर अधिनियम, 1961 की घास 35 की उधारा (1) के बारे (ii) (पैटीस/एक्सट्रो) के प्रयोजनों के लिए "इंस्टीच्यूशन प्रधान" के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है—

(i) यह कि उक्त केवल्याधाम श्रीमन माधव योग मन्दिर समिति लोनावला द्वारा वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त गणियों का पृथक् लेखा रखेगा।

(ii) यह कि उक्त इंस्टीच्यूट द्वारा वैज्ञानिक अनुसंधान संबंधी कार्य-क्रमों की वार्षिक विवरणी, विहित प्राधिकारी की प्रत्येक वित्तीय वर्ष के संबंध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिक विविध किया जाए और उसे मूल्यित किया जाए।

(iii) यह कि उक्त इंस्टीच्यूट द्वारा वैज्ञानिक अनुसंधान संबंधी हुए अपने संपरीक्षित वार्षिक लेखों की लक्ष्य अपनी परिसंपत्तियां, देनदारियां वर्णने हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन वस्तु-वेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर दोई, नई दिल्ली, आयकर महानिवेशक (छूट), कलकत्ता सभा मंबाधित आयकर आयकृत के पास भेजेगा।

(iv) यह कि उक्त इंस्टीच्यूट द्वारा वैज्ञानिक अनुसंधान कुल आय तथा व्यय वर्णने हुए अपने संपरीक्षित वार्षिक लेखों की लक्ष्य अपनी परिसंपत्तियां, देनदारियां वर्णने हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन वस्तु-वेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर दोई, नई दिल्ली, आयकर महानिवेशक (छूट), कलकत्ता सभा मंबाधित आयकर आयकृत के पास भेजेगा।

इंस्टीट्यूशन/एसोसिएशन

केवल्याधाम श्रीमन माधव योग मन्दिर समिति, लोनावला-410403 महाराष्ट्र।

यह अधिसूचना दिनांक 1-4-1988 से 31-3-1989 तक की अवधि के लिए प्रभावी है।

[म. 8212 (फा.सं. 203/278/88-आयकर नि.-II)]

S.O. 2403.—In continuation of this Office Notification No. 6953 (F. No. 203/213/86-ITA.II) dated 6-10-1986 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Institution" subject to the following conditions :—

- (i) That Kaivalyadhama Shriman Madhava Yoga Mandir Samiti, Lonavala will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- (iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Kaivalyadham Shriman Madhava Yoga Mandir Samiti,
Lonavala-410403, Maharashtra

This Notification is effective for a period from 1-4-1988 to
31-3-1989.

[No. 8212 (F. No. 203/278/88-ITA-II)]

नई दिल्ली, 28 फरवरी, 1989

का.आ. 2404—इस कार्यालय की विनांक 27-10-1987 की प्रधिसूचना सं. 7597 (फा.सं. 203/162/87-आ.क.नि.-II) के अनुक्रम में, सर्वे साधारण की जानकारी के लिए एतद्वारा यह प्रधिसूचित किया जाता है कि विहित प्राधिकारी प्रथमत वैज्ञानिक और भौतिकीय प्रानुसंधान विभाग, नई दिल्ली, ने निम्नलिखित मंस्या को आयकर नियम 1962 के नियम 6 के माध्यम पठित आयकर प्रधिनियम, 1961 की धारा 35 की उपधारा (i) के अन्दर (ii) (पैरीस-एक-दो) के प्रयोजनों के लिए “एसोसिएशन” प्रवर्ग के वैज्ञानिक प्रानुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

(i) यह कि उक्त पैरीस-एक-दो के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक प्रानुसंधान संबंधी कार्य-कालापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के संबंध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए प्रधिकृत किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा व्यय दर्शाते हुए अपने संपरीक्षित वार्षिक लेखों की तथा अपनी परिसंवित्ति, देनदारियों दर्शाते हुए तुलन-पद्धति की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिवेशक (छट), कलकत्ता तथा संबंधित आयकर प्रानुसूचक के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छट) कलकत्ता को अनुमोदन की समाप्ति से पूर्व प्राधिकृति, प्रबंधि वकाले के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

सैन्ट्रल इंडिया इंस्टीट्यूशन आफ मेडिकल साइंसेज, 88-2, ब्राजाज नगर नागपुर, 440010.

यह प्रधिसूचना विनांक 1-4-1988 से 31-3-1989 तक की प्रबंधि दर्शाते हुए प्रभावी है।

[सं. 8221 (फा.सं. 203/228/88-आयकरनि.-II)]

New Delhi, the 28th February, 1989

S.O. 2404.—In continuation of this Office Notification No. 7597 (F. No. 203/162/87-ITA-II) dated 27-10-1987 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for

the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category “Association” subject to the following conditions:—

- (i) That Central India Institute of Medical Sciences, 88/2, Bajaj Nagar, Nagpur will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets and liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Central India Institute of Medical Sciences, 88/2, Bajaj Nagar, Nagpur-440010

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8227 (F. No. 203/228/88-ITA-II)]

नई दिल्ली, 8 मार्च, 1989

का.आ. 2405:—इस कार्यालय की विनांक 12-12-86 की प्रधिसूचना सं. 7038 (फा.सं. 203/154/86-आ.क.नि.-II) के अनुक्रम में, सर्वे साधारण की जानकारी के लिए एतद्वारा यह प्रधिसूचित किया जाता है कि विहित प्राधिकारी प्रथमत वैज्ञानिक और भौतिकीय प्रानुसंधान विभाग, नई दिल्ली, ने निम्नलिखित मंस्या को आयकर नियम 1962 के नियम 6 के माध्यम पठित आयकर प्रधिनियम, 1961 की धारा 35 की उपधारा (i) के अन्दर (ii) (पैरीस-एक-दो) के प्रयोजनों के लिए “एसोसिएशन” प्रवर्ग के वैज्ञानिक प्रानुसंधान के पास भेजेगा।

(i) यह कि गुजरात इण्डस्ट्रियल रिसर्च डिवेलपमेंट एजेंसी, इण्डस्ट्रियल रिसर्च लेबोरेट्री बड़ीता, भागों वैज्ञानिक प्रानुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक प्रानुसंधान संबंधी कार्य-कालापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के संक्षेप में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो हम योजन के लिए प्रधिकृत किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा व्यय दर्शाते हुए अपने संपरीक्षित वार्षिक लेखों की तथा अपनी परिसंवित्ति, देनदारियों दर्शाते हुए तुलन-पद्धति की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिवेशक (छट), कलकत्ता तथा संबंधित आयकर प्रानुसूचक के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्ष कर बांड, वित मन्त्रालय (राजस्व विभाग), नई दिल्ली तथा भायकर महानिदेशक (छट), कलकत्ता को अनुमोदन की समाप्ति से पूर्व मतिरिक्त अधिकार बढ़ाने के लिए प्रावेदन करेगा अनुमोदन की समाप्ति की तारीख के पश्चात प्राप्त होने वाले आवेदन पक्षों को रद्द कर दिया जाएगा।

इत्याधिकृत-एसोसिएशन

गुजरात इंडस्ट्रियल रिसर्च एंड डिवेलपमेंट एजेंसी, इण्डोर्स्ट्रील रिसर्च एवं वार्षिक साइंस कार्यालय, बड़ोदा-390002.

यह अधिसूचना दिनांक 1-4-88 से 31-3-89 तक का अधिकार के लिए प्रभावी है।

[स. 8227 (फा. स. 203/157/88-भायकर नि.-II)]

New Delhi, the 8th March, 1989

S.O. 2405.—In continuation of this Office Notification No. 1038 (F. No. 203/154/86-IIA.II) dated 12-12-86 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions:—

- That Gujarat Industrial Research and Development Agency, Industrial Research Laboratory, Baroda will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption), Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

AESOCIATION

Gujarat Industrial Research and Development Agency, Industrial Research Laboratory Science College Compound, Baroda-390002

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8227 (F. No. 203/157/88-ITA-II)]

नई दिल्ली, 10 मार्च, 1989

का.आ. 2406:—इस कार्यालय की दिनांक 18-8-86 की प्रधिसूचना स. 6873 (फा. स. 203/114/88-आ.क. नि.-II) के अनुक्रम में, सर्वे साधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि विहित प्रावितारी अर्थात् वैशानिक और औद्योगिक अनसंधान

विभाग, नई दिल्ली, ने निम्नलिखित संस्था को भायकर नियम 1962 के नियम 6 के साथ पठित भायकर अधिनियम 1961 को द्वारा 35 की उपधारा (1) के खण्ड (ii) (पैतीस-एक-दो) के प्रयोजनों के लिए "एसोसिएशन" प्रवर्ग के अधीन निम्नलिखित गती पर अनुमोदित किया है:

(i) यह कि गंगाबक्ष कनोडिया मेडिकल रिसर्च सेन्टर, 9, ब्राबोर्न रोड, कलकत्ता अपने वैज्ञानिक अनुसंधान के लिए स्वतंत्र द्वारा भायकर राशियों का पृथक लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों का वापिक विवरणी, विद्युत प्राधिकारी का प्रत्येक विस्तृत वर्णन के संबंध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिकारित किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल भायकर अध्य वर्षाते हुए, अपने संपर्कात्मक वाणिज्यिक लेखों की तथा अपनी परिस्पत्ता, देवदारियां वर्षात हुए तुलन-पत्र का एक-एक प्राप्त, प्रति वर्ष 30 जून तक विवाहित प्राधिकारी का पास प्रस्तुत करेगा तथा इन वस्तावेजों में प्रत्येक का एक-एक प्राप्त केन्द्रीय प्रत्यक्ष करवाओ, नद दिल्ली भायकर महानिदेशक (छट), कलकत्ता तथा सबाधत भायकर भायकर का पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन कलद्वय प्रत्यक्ष कर बांड, वित मन्त्रालय (राजस्व विभाग), नद दिल्ली, तथा भायकर महानिदेशक (छट) कलकत्ता को अनुमोदन की समाप्ति से पूर्व आवेदन करवाओ तथा अनुमोदन की जानकारी के लिए, आवेदन करेगा अनुमोदन की समाप्ति की तारीख के पश्चात प्राप्त होने वाले आवेदन पक्षों का रद्द कर दिया जाएगा।

एसोसिएशन

गंगाबक्ष कनोडिया रिसर्च सेन्टर, 9, ब्राबोर्न रोड, कलकत्ता।

यह अधिसूचना दिनांक 1-4-88 से 31-3-1989 तक का अधिकार के लिए प्रभावी है।

[स. 8230 (फा. स. 203/3/88-आ.क. नि.-II)]

New Delhi, the 10th March, 1989

S.O. 2406.—In pursuance of this Office Notification No. 6073 (F. No. 203/114/86-IIA.II) dated 10-8-86 it is hereby notified for general information that the institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions:—

- That Gangabux Kanoria Medical Research Centre, 9, Brabourne Road, Calcutta will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.

(iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Gangabux Kanoria Medical Research Centre, 9, Brabourne Road, Calcutta-1

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8230 (F. No. 203/3/88-ITA-II)]

का.पा. 2407:—इस कार्यालय की विनाक 30-9-86 की प्रधिसूचना सं. 6740 (का.सं. 203-26-86-पा.क.नि.-II) अनुक्रम में, सर्वे साधारण की जानकारी के लिए एतद्वारा प्रधिसूचित किया जाता है कि विहित प्राधिकारी पर्यात वैज्ञानिक क्षेत्र और शोधीयक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की घारा 35 की उपधारा (i) के खण्ड (ii) (पंतीस-एक-तीस) के प्रयोजनों के लिए “एसोसिएशन” प्रबन्ध के अधीन निम्नलिखित शर्तों पर अनुमोदित किया जाता है:

(i) यह कि उक्त इंडियन रजिस्टर आक शिपिंग, बम्बई अपने वैज्ञानिक अनुसंधान के संबंध में प्रतिवर्ष 31 मई तक ऐसे प्रयोजनों में प्रस्तुत करेगा जो इस प्रयोजन के लिए कथित किया जाए और उसे सूचित किया जाए।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बंध में प्रतिवर्ष 31 मई तक ऐसे प्रयोजनों में प्रस्तुत करेगा जो इस प्रयोजन के लिए कथित किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा व्यय वर्षान्ति हुए अपने संपरीक्षित वार्षिक लेखों की तथा अपनी परिसंपत्तियां, देनावारियां वर्षान्ति हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन वस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्षकर बोर्ड, नई दिल्ली, आयकर महानिवेशक (कूट), कलकत्ता तथा संबंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्षकर बोर्ड वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (कूट), कलकत्ता को अनुमोदन की समाप्ति से पूर्व प्रतिरिक्षित अवधि बढ़ाने के लिए आवेदन करेगा अनुमोदन की समाप्ति की तारीख के पश्चात प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

एसोसिएशन

इंडियन रजिस्टर आक शिपिंग, बम्बई

यह प्रधिसूचना विनाक 1-4-88 से 31-3-89 तक की अवधि के लिए प्रभावी है।

[सं. 8229 (का.सं. 203/203-87-प्रायकर नि.-II)]

S.O. 2407.—In continuation of this Office Notification No. 6740 (F. No. 203/26/86-ITA.II) dated 30-9-86 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category “Association” subject to the following conditions :—

(i) That Indian Register of Shipping, Bombay will maintain a separate account of the sums received by it for scientific research.

(ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.

(iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.

(iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Indian Register of Shipping, Bombay.

This Notification is effective for a period from 1-4-88 to 31-3-89.

[No. 8229 (F. No. 203/203/87-ITA-II)]

नई दिल्ली 17 मार्च, 1989

का. पा. 2408:—इस कार्यालय की दिनाक 22-9-89 की प्रधिसूचना सं. 6929 (का. सं. 203 / 143 / 86 पा. क. नि.-II) के अनुक्रम में, सर्वे साधारण की जानकारी के लिए एतद्वारा यह प्रधिसूचित किया जाता है कि विहित प्राधिकारी पर्यात वैज्ञानिक और शोधीयक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की घारा 35 की उपधारा (i) के खण्ड (iii) (पंतीस/एक/तीस) के प्रयोजनों के लिए “इंस्टिट्यूशन” प्रबन्ध के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है :—

(i) यह कि सेंटर फार रिसर्च इंस्टिट्यूशन अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बन्ध में प्रति वर्ष 31 मई तक ऐसे प्रयोजनों में प्रस्तुत करेगा जो इस प्रयोजन के लिए प्रधिकथित किया जाए और उसे सूचित किया जाए।

(ii) यह कि उक्त इंस्टिट्यूशन अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बन्ध में प्रति वर्ष 31 मई तक ऐसे प्रयोजनों में प्रस्तुत करेगा जो इस प्रयोजन के लिए प्रधिकथित किया जाए।

(iii) यह कि उक्त इंस्टिट्यूशन अपनी कुल आय तथा व्यय वर्षान्ति हुए अपने संपरीक्षित वार्षिक लेखों की तथा अपनी परिसंपत्तियां, देनावारियां वर्षान्ति हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन वस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्षकर बोर्ड, नई दिल्ली, आयकर महानिवेशक (कूट), कलकत्ता तथा संबंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त इंस्टिट्यूशन केन्द्रीय प्रत्यक्षकर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (कूट), कलकत्ता को अनुमोदन की समाप्ति से पूर्व प्रतिरिक्षित अवधि बढ़ाने के लिए आवेदन करेगा अनुमोदन की समाप्ति की तारीख के पश्चात प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

सेंटर फार रिसर्च इन स्ट्रीट एंड इंडस्ट्रियल डिवलपमेंट, चंडीगढ़

यह अधिसूचना दिनांक 1-4-1988 से 31-3-1989 तक की अवधि के लिए प्रभावी है।

[सं. 8259 (फा. सं. 203/14/88 -- आयकर नि. -II)]

New Delhi, the 17th March, 1989

S.O. 2408.—In continuation of this Office Notification No. 6929 (F. No. 203/143/86-IIA.II) dated 22-9-86 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (iii) of sub-section (1) of Section 35 (Thirty Five/One/Three) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Institution" subject to the following conditions:—

- (i) That Centre for Research in Rural and Industrial Development, Chandigarh will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.
- (iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Centre for Research in Rural & Industrial Development, Chandigarh.

This Notification is effective for a period from 1-4-88 to 31-3-89.

[No. 8259 (F. No. 203/14/88-ITA-II)]

का. आ. 2409—इस कार्यालय की दिनांक 21-4-87 की अधिसूचना सं. 7250 (फा. सं. 203/187/86 आ. कर नि. -II) के अनुक्रम में संबंधित अधिसूचित किया जाता है कि विहित प्राधिकारी अवधि वैज्ञानिक और ग्रीष्मोगिक अनुसंधान विभाग, नई दिल्ली ने निम्नलिखित संस्थाएँ को आयकर नियम 1962 के नियम 6 के साथ पटित प्रायकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के खंड (ii) (पैटेस/एक/वो) के प्रयोजनों के लिए "एसोसिएशन" प्रयोग के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है:—

(i) मह कि भाऊसाहेब सरदेसाई मेमोरियल रिसर्च फाउण्डेशन, तेलगांव, गिला-पुणे अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृष्ठक लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक विवरण वर्ष के सम्बन्ध में प्रविष्ट 31 मई तक देसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए प्रधिकृत किया जाए और उसे सूचित किया जाए,

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा व्यय वर्षाते हुए अपने संपरीक्षित वार्षिक लेखों की तथा अपनी परिस्थितियों, देनवारियां दर्शाते हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर लोडे, नई दिल्ली, आयकर महानिवेशक (छूट), कलकत्ता तथा संबंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्ष कर लोडे, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छूट), कलकत्ता को अनुमोदन की समाप्ति से तीन माह पूर्व अतिरिक्त अवधि बढ़ाने के लिए आवेदन करेगा अनुमोदन की समाप्ति की सारी रुपए के पश्चात प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाए।

इंस्टीट्यूशन/एसोसिएशन

भाऊसाहेब सरदेसाई मेमोरियल रिसर्च फाउण्डेशन, तेलगांव जनरल अस्पताल, पुणे

यह अधिसूचना दिनांक 1-4-1988 से 31-3-1989 तक की अवधि के लिए प्रभावी है।

[सं. 8253 (फा. सं. 203/127/88 आयकर नि. -II)]

S.O. 2409.—In continuation of this Office Notification No. 7250 (F. No. 203/187/86-ITA.II) dated 21-4-87 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions:—

- (i) That Bhausaheb Sardesai Memorial Research Foundation, Talegaon, Distt. Pune will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Bhausaheb Sardessai Memorial Research Foundation, Tele-
gaon General Hospital, Pune.

This Notification is effective for a period from 1-4-88 to
31-3-89.

[No. 8253 (F. No. 203/27/88-ITA-II)]

का. आ. 2410 :—इस कार्यालय की दिनांक 25-4-1986 की अधिसूचना सं. 6688 (फा. सं. 203/183/85 आ. कर. नि.-II) के अनुक्रम में, गवर्नर साधारण को जानकारी के लिए एतद्वाया यह अधिसूचित किया जाता है कि विहित प्राधिकारी व्यापक वैज्ञानिक और भौतिकीय अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संख्या को आयकर नियम 1962 के नियम 6 के माध्यम पठित आयकर अधिनियम 1961 की धारा 35 की उपधारा (i) के लिए (iii) (पैरीस/एक तीन) के प्रयोजनों के लिए “एसोसिएशन” प्रबन्ध के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है :—

(i) यह कि इंडियन स्कूल आफ पॉलीटेक्निक एकानोमी, पुणे अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान सम्बंधी कार्यकलापों की वार्षिक विवरणी, प्राधिकारी को प्रस्तुत विस्तीर्ण वर्ष के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिकारित किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा व्यय विवरणी हुए अपने संपरीक्षित वार्षिक लेखों को तथा अपनी परिसम्पत्तियां, देनवारियां दर्शाते हुए तुलन पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिवेशक (छूट), कलकत्ता तथा सम्बंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छूट), कलकत्ता को अनमोदन की समाप्ति से पूर्व अतिरिक्त अवधि बढ़ाने के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन / एसोसिएशन

इंडियन स्कूल आफ पॉलीटेक्निक एकानोमी, पुणे

यह अधिसूचना दिनांक 1-4-1988 से 31-3-1989 तक की अधिक के लिए प्रभावी है।

[स. 8260 (फा. सं. 203/30/89 आयकर नि.-II)]

S.O. 2410.—In continuation of this Office Notification No. 6688 (F. No. 203/183/85-ITA. II) dated 25-4-86 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (iii) of sub-section (1) of Section 35 (Thirty Five/One/Three) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category “Association” subject to the following conditions :—

- That Indian School of Political Economy, Pune will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as

may be laid down and intimated to them for this purpose by 31st May, each year.

(iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets and liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption), Calcutta and the Concerned Commissioner of Income-tax.

(iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption), Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

ASSOCIATION

Indian School of Political Economy, Pune.

This Notification is effective for a period from 1-4-88 to 31-3-89.

[No. 8260 (F. No. 203/30/89-ITA-II)]

का. आ. 2411 :—इस कार्यालय की दिनांक 9-12-86 की अधिसूचना सं. 7027 (फा. सं. 203/128/86 आ. कर. नि.-II) के अनुक्रम में, सर्वे साधारण को जानकारी के लिए एतद्वाया यह अधिसूचित किया जाता है कि विहित प्राधिकारी प्राधान वैज्ञानिक और भौतिकीय अनुसंधान विभाग, नई दिल्ली ने निम्नलिखित संख्या को आयकर नियम 1962 के नियम 6 के माध्यम पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के लिए (ii) (पैरीस/एक दो) के प्रयोजनों के लिए “एसोसिएशन” प्रबन्ध के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है :—

(i) यह कि इंडियन कैंसर सोसाईटी, जमशेषपुर अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रस्तुत विस्तीर्ण वर्ष के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिकारित किया जाए और उस सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा व्यय विवरणी हुए अपने संपरीक्षित वार्षिक लेखों को तथा अपनी परिसम्पत्तियां, देनवारियां दर्शाते हुए तुलन पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिवेशक (छूट), कलकत्ता तथा सम्बंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छूट), कलकत्ता को अनमोदन की समाप्ति से तीन माह पूर्व अतिरिक्त अवधि बढ़ाने के लिए आवेदन करेगा अनमोदन की समाप्ति की तारीख के पश्चात प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन / एसोसिएशन

इंडियन कैंसर सोसाईटी, जमशेषपुर

यह अधिसूचना दिनांक 1-4-1988 से 31-3-89 तक की अधिक के लिए प्रभावी है।

[स. 8261 (फा. सं. 203/28/88 आयकर नि.-II)]

S.O. 2411.—In continuation of this Office Notification No. 7027 (F. No. 203/128/86-ITA-II) dated 9-12-86 is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category Association subject to the following conditions :—

- (i) That Indian Cancer Society, Jamshedpur will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Indian Cancer Society, Jamshedpur.

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8261 (F. No. 203/28/88-ITA-II)]

का. आ. 2412:—इस कार्यालय की दिनांक 5-8-1988 की अनुमति सं. 6845 (फा. सं. 203/138/86 आ का नि-II के अनुक्रम में सर्व साधारण की जानकारी के लिए एनदब्ल्यूए यह अधिसूचित किया जाता है कि विहित प्राधिकारी प्राप्ति वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के अन्तर्गत (ii) प्रतीक्षा/एक/दो के प्रयोजनों के लिए "एसेमिनेशन" प्रक्रम के प्रधीन निम्नलिखित शर्तों पर अनुमोदित किया है :—

(i) यह कि सेरम ईस्टीट्यूट प्राफ ईंडिया रिसर्च फाउण्डेशन पुणे नियम 6 के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रयोजनों में प्रस्तुत करेगा इन प्रयोजन के लिए अधिकारित किया जाए और उसे सूचित किया जाए।

(ii) यह कि उक्त ईस्टीट्यूट अपने वैज्ञानिक अनुसंधान सम्बंधी कार्यकालार्थी की वैज्ञानिक विवरणी, विहित प्राधिकारी की प्रत्येक विवरणी की तथा अपनी परिम्पत्तियां वेन्डारिया दर्शाते हुए उल्लंघन पक्ष की एक एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक

कः एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोड़, नई विल्सनी, आयकर महानियेंगक (छट) . कलाकृति तथा सम्बिल आयकर आयकर के पास भेजेगा।

(iv) यह कि उक्त ईस्टीट्यूट केन्द्रीय प्रत्यक्ष कर बोड़, विवरणी (राजस्व विभाग), नई दिल्ली तथा आयकर महानियेंगक (छट), कलाकृति को अनुमोदन की समाप्ति के तीन माह पूर्वे प्रतिरिक्त स्वाधीन बढ़ावे के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् आप हीने लाने आवेदन पत्रों को रद्द कर दिया जाएगा।

ईस्टीट्यूट/एसेमिनेशन

सेरम ईस्टीट्यूट प्राफ ईंडिया रिसर्च फाउण्डेशन, सारांश मन्दिर, 16 बी/1, शे अम्बेडकर रोड, पुणे।

यह अधिसूचना दिनांक 1-4-1988 से 31-3-1989 तक की अवधि के लिए प्रमाणित है।

[स. 8256 (फा. स. 203/150/88 आयकर नि-II)]

S.O. 2412.—In continuation of this Office Notification No. 6845 (F. No. 203/138/86-ITA-II) dated 5-8-86 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions:—

- (i) That Serum Institute of India Research Foundation, Pune, will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets, liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.
- (iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Serum Institute of India Research Foundation, Sarash Bhawan 16-B/1, Dr. Ambedkar, Road, Pune-1.

This Notification is effective for a period from 1-4-88 to 31-3-89

[No. 8256 (F. No. 203/150/88-ITA-II)]

का. आ. 2413:—इस कार्यालय की दिनांक 23-11-1987 की प्रधिसूचना सं. 7066 (फा. सं. 203/261/86 आ का नि-II के अनुक्रम में, सर्व साधारण की जानकारी के लिए एनव्हारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी प्राप्ति वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के अन्तर्गत (ii) प्रतीक्षा/एक/दो के

प्रयोजनों के लिए "एसोसिएशन" प्रबन्ध के अंतर्गत निम्नलिखित शर्तों पर अनुमोदित किया है:—

(i) यह कि निम्नलिखित आक अधिकार निम्नलिखित शर्तों पर वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान सम्बंधी कार्यक्रमों की वार्षिक विवरण, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रवर्तों में प्रस्तुत करेगा जो इस प्रयोजन के लिए प्रधिकृत किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा अय दराते हुए अपने अधिकारी वार्षिक लेखों का तथा अपनी परिस्थितियों, वैनदारियों वर्षाते हुए तुलन पत्र का एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन वस्त्रावर्जों में से प्रत्येक का एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिवेशक (छूट), कलकत्ता तथा सम्बंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन फेन्ड्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छूट), कलकत्ता तथा अनुमोदन को समाप्ति से पूर्व अतिरिक्त अवधि बढ़ाने के लिए आवेदन करेगा अनुमोदन की समाप्ति की तारीख के पश्चात प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

भोसाईट: आक अधिकार निम्नलिखित, इंडिया

यह अधिसूचना विनांक 1-4-1988 से 31-3-1989 तक की अवधि के लिए प्रभारी है।

[सं. 8255 (फा. सं. 203 / 8 / 88 आयकर नि.-II)]

S.O. 2413.—In continuation of this Office Notification No. 7066 (F. No. 203/261/86-ITA. II) dated 23-11-87 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions:—

- That Society of Nuclear Medicine, India, will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption), Calcutta and the Concerned Commissioner of Income-tax.
- That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Society of Nuclear Medicine, India.

This Notification is effective for a period from 1-4-88 to 31-3-89.

[No. 8255 (F. No. 203/8/88-ITA-II)]

नई दिल्ली, 20 मार्च, 1989

का. फा. 2414—आयकर नि. —II इस कार्यालय की दिनांक 2-6-1987 की अधिसूचना सं. 7320 (फा. सं. 203/33/86 आ. कर. नि.-II) के अनुक्रम में, सर्व साधारण की जानकारी के लिए एकद्वारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी अधिकृत वैज्ञानिक और अधिकारी अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित सम्पत्ति को आयकर नियम 1962 के नियम 6 के माध्य पठित आयकर अधिनियम 1961 की धारा 35 की उपव्याय (i) के खण्ड (ii) (पर्यंत/एक-दो) के प्रयोजनों के लिए "एसोसिएशन" प्रबन्ध के अंतर्गत निम्नलिखित शर्तों पर अनुमोदित किया है:—

(i) यह कि श्री अरविन्दो इंस्टीट्यूट आक प्लाईच साइटिकल रिसर्च, पार्सिंगर अपने वैज्ञानिक अनुसंधान के निए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान सम्बंधी कार्य कलापों की आक विवरण, विहित प्राधिकारों ने प्रत्येक विचारण वर्ष के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रवर्तों में प्रस्तुत करेगा जो इस प्रयोजन के लिए प्रधिकृत किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपर्याप्त कुल आय तथा अय दराते हुए अपने अधिकारी वार्षिक लेखों की तथा अपनी परिस्थितियों, वैनदारियों वर्षाते हुए तुलन पत्र का एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारों के पास प्रस्तुत करेगा तथा इन वस्त्रावर्जों में से प्रत्येक की एक एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली आयकर महानिवेशक (छूट) कलकत्ता तथा सम्बंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन फेन्ड्रीय प्रत्यक्ष कर बोर्ड वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिवेशक (छूट), कलकत्ता को अनुमोदन की समाप्ति से तीन माह पूर्व अतिरिक्त अवधि बढ़ाने के लिए आवेदन करेगा अनुमोदन की समाप्ति की तारीख के पश्चात प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

अरविन्दो इंस्टीट्यूट प्लाईच साइटिकल रिसर्च एकादशी हाउस 12, मारवाड़ी स्ट्रीट पर्सिंगर नगर, पार्सिंगर।

यह अधिसूचना विनांक 1-4-88 से 31-3-89 तक की अवधि के लिए प्रभारी है।

[सं. 8264 (फा. सं. 203 / 19/ 88 आयकर नि. II-]

New Delhi, the 20th March, 1989

S.O. 2414.—In continuation of this Office Notification No. 7320 (F. No. 203/33/86-ITA. II) dated 2-6-1987 is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read

with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions :—

- (i) That Sri Aurobindo Institute of Applied Scientific Research, Pondicherry, will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Sri Aurobindo Institute of Applied Scientific Research, Academy House, 12, Maravadi Street, Padmini Nagar Pondicherry-605012.

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8264 (F. No. 203/19/89-ITA-II)]

नई विली, 27 मार्च, 1989

का. आ. 2415:—इस कार्यालय की वितांक 10-4-87 की अधिसंघना सं. 7243 (का. सं. 203/221/86 आ. क. नि.-II) में अनुक्रम में, यह साधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी अवैति वैज्ञानिक और अधिगतिक अनुसंधान विभाग, नई विली, ने निम्नलिखित संस्था को आयकर विभाग, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की घारा 35 की उपधारा (i) के छान्ड (ii) (पैरीस/एक/तीन) के प्रयोजनों के लिए "इंस्टीट्यूशन" प्रवर्ग के अंतर्गत निम्नलिखित गतों पर अनुमोदित किया है।

(i) यह कि इंस्टीट्यूट आफ कम्पनी सेकरेट्रीज, नई विली अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृष्ठा भेजा रखेगा।

(ii) यह कि उक्त इंस्टीट्यूट अपने वैज्ञानिक अनुसंधान संबंधी कार्य कार्यालयों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बन्ध में प्रति वर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस "प्रयोजन" के लिए अधिकारित किया जाए। और उसे सूचित किया जाए।

(iii) यह कि उक्त इंस्टीट्यूट— अपनी कुल आय तथा अवैति हुए अपने संपर्कीय वार्षिक लेखों की तथा अपनी परिस्थिति। 2578 GI/89—2.

देनवारिया वर्ती हुए तुलन पत्र को एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक को एक-एक प्रति केव्रीय प्रत्यक्ष कर बोर्ड, नई विली, आयकर महानिदेशक (कूट), कलकत्ता तथा सम्बंधित आयकर आयकर के पात्र भेजेगा।

(iv) यह कि उक्त इंस्टीट्यूट केव्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राष्ट्रीय विभाग), नई विली तथा आयकर महानिदेशक (कूट) कलकत्ता को अनुमोदन की समाप्ति से पूर्व अतिरिक्त अवधि बढ़ाने के लिए प्रावेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन

इंस्टीट्यूट आफ कम्पनी सेकरेट्रीज, नई विली

यह अधिसूचना वितांक 1-4-88 से 31-3-89 तक की प्रवधि के लिए प्रयोगी है।

[सं. 8288 (का. सं. 203/42/89 आयकर नि.-II)]

New Delhi, the 27th March, 1989

S.O. 2415.—In continuation of this Office Notification No. 7243 (F. No. 203/221/86-ITA. II) dated 10-4-87 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (iii) of sub-section (1) of Section 35 (Thirty Five |One|Three) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Institution" subject to the following conditions :—

(i) That Institute of Company Secretaries, New Delhi will maintain a separate account of the sums received by it for scientific research.

(ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.

(iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.

(iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION

Institute of Company Secretaries, New Delhi.

This Notification is effective for a period from 1-4-1988 to 31-3-89.

[No. 8288 (F. No. 203/42/89-ITA-II)]

प्रायकर

तर्फ दिल्ली, 28 मार्च, 1989

का.आ. 2416.—इस कार्यालय की विनांक 14-7-86 की अधिसूचना सं. 6794 (फा.सं. 203/211/85-प्रायकर नि. II) के अनुक्रम में, मर्व माधारण की जातकरी के लिए एतद्वारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली ने निम्नलिखित संस्था को प्रायकर नियम 1962 के नियम 6 के माध्य पठित प्रायकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के अल्प (ii) पैतीस/एक/तीन) के प्रयोजनों के लिए “इस्टीच्यून” वर्ग के अधीन निम्नलिखित गतों पर अनुमोदित किया है।-

(i) यह कि सोशल परिस्तीर्णी रिसर्च इंस्टीच्यूट, जयपुर अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक् देखा रखेगा।

(ii) यह कि उक्त इंस्टीच्यूट अपने वैज्ञानिक अनुसंधान मामधी के वैज्ञानिकों की वैरिक विवरणी, विहित प्राधिकारी को प्रत्येक विलोप वर्ष के सम्बन्ध में प्रति वर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिक कृपित किया और उसे सूचित किया जाए।

(iii) यह कि उक्त इंस्टीच्यूट अपनी कुल आय तथा व्यय दर्शाते हुए अपने संपरीक्षित वैरिक लेखों की तथा अपनी परिस्मृतियों देवनावियों दर्शाते हुए तुलन-पत्र को एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति फैलोव प्रत्यक्ष कर बोर्ड, नई दिल्ली, प्रायकर महानिदेशक (एट), कलकत्ता तथा सम्बन्धित प्रायकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त इंस्टीच्यूट केन्द्रीय प्रस्तुत कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा प्रायकर महानिदेशक (एट), कलकत्ता की अनुमोदन की समाप्ति से पूर्व अतिरिक्त अवधि बढ़ावे के लिए आवेदन करेगा अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इस्टीच्यूट/एमोविभान

मोशल पारिसो रिसर्च इंस्टीच्यूट बी-३, हास्पिटल रोड-जयपुर-302001

यह अधिसूचना विनांक 1-4-88 से 31-3-89 तक की अवधि के लिए प्रभारी है।

[सं. 8291 (फा.सं. 203/36/89-प्रायकर नि. II)]

INCOME TAX

New Delhi, the 28th March, 1989

S.O. 2416.—In continuation of this Office Notification No. 6794 (F. No. 203/211/85-ITA, II) dated 14-7-86 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (iii) of sub-section (1) of Section 35 (Thirty Five |One|Three) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules 1962 under the Category “Institution” subject to the following conditions :—

- (i) That Social Policy Research Institute, Jaipur will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed

Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.

- (iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets, liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.
- (iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION

Social Policy Research Institute, B-3, Hospital Road, Jaipur-302001.

This Notification is effective for a period from 1-4-1988 to 31-3-89.

[No. 8291 (F. No. 203/36/89-ITA-II)]

प्रायकर

का.आ. 2417.—इस कार्यालय की विनांक 11-9-86 की अधिसूचना सं. 6907 (फा. सं. 203/134/86-प्रा.कर नि. II) के अनुक्रम में, मर्व माधारण की जातकरी के लिए एतद्वारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को प्रायकर नियम 1962 के नियम 6 के माध्य पठित प्रायकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के अल्प (ii) पैतीस/एक/तीन) के प्रयोजनों के लिए “एमोसिएशन” प्रबो के अधीन निम्नलिखित गतों पर अनुमोदित किया है :—

- (i) यह कि शो रामजीनी रिसर्च इंस्टीच्यूट शाफ श्राकृपेशनल हैल्प सर्विसेज, 577, शुक्रावर पीठ पुणे-411002 अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक् देखा रखेगा।
- (ii) यह कि उक्त एमोसिएशन अपने वैज्ञानिक अनुसंधान सम्बंधी कार्यकलापों की वैरिक विवरणी, विहित प्राधिकारी को प्रत्येक विलोप वर्ष के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिक कृपित किया जाए और उसे सूचित किया जाए।
- (iii) यह कि उक्त एमोसिएशन अपनी कुल आय तथा व्यय दर्शाते हुए अपने संपरीक्षित वैरिक लेखों की तथा अपनी परिस्मृतियों देवनावियों दर्शाते हुए तुलन-पत्र को एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति फैलोव प्रत्यक्ष कर बोर्ड, नई दिल्ली, प्रायकर महानिदेशक (एट), कलकत्ता तथा सम्बन्धित प्रायकर आयुक्त के पास भेजेगा।
- (iv) यह कि उक्त एमोसिएशन केन्द्रीय प्रायकर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा प्रायकर महानिदेशक (एट), कलकत्ता की अनुमोदन की समाप्ति से पूर्व अतिरिक्त

प्रधान बड़ाने के लिए आवेदन करेगा। अनुमोदन को समाप्ति की तारीख के पश्चात प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एमोसिएशन

डॉ रामजिनी रिसर्च इंस्टीट्यूट आर. ए. एसी. एस. ट्रैनिंग
पुणे-411002

यह अधिकृत दिनांक 1-4-88 से 31-3-89 तक को प्रतिधित के लिए प्रभावी है।

[म. 8294 (फ. नं. 203/7/88-प्रत्यक्ष नि. -II)]

INCOME TAX

S.O. 2417.—In continuation of this Office Notification No. 6907 (F. No. 203/134/86-ITA. II) dated 11-9-86 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (iii) of sub-section (1) of Section 35 (Thirty Five One/Three) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules 1962 under the Category "Institution" subject to the following conditions:—

- That Dr. Ramazini Research Institute of Occupational Health Services, 577, Shukrawar Peth, Pune-411002 will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets, liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.
- That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

ASSOCIATION

Dr. Ramazini Research Institute of Occupational Health Services, Pune-411002.

This Notification is effective for a period from 1-4-1988 to 31-3-89.

[No. 8294 (F. No. 203/7/88-ITA-II)]

आपका

नई दिल्ली, 30 मार्च, 1989

का. प्रा. 2418.—इस कार्यालय की दिनांक 1-7-1987 की अधिकृत दिनांक 7396 (फ. नं. 203/51/87-प्रा. कर. नि. -II) के अनुक्रम में वर्त्तमान वर्षीय जानकारी के लिए एन्ड्राया यह अधिकृत दिनांक जाता है कि विहित प्राधिकारी प्रधान वैज्ञानिक और औद्योगिक अनुग्राहन विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आपकर नियम 1962 व नियम 6 के माध्यम परिवर्त अधिनियम, 1961 की धारा 35 की उपचारा (i) के

संघ (ii) वैज्ञानिक द्वारा प्रयोगों के लिए "एमोसिएशन" "प्रबन्ध के अर्थात् निम्नलिखित गणों पर अनुमोदित किया है:—

- यह कि डॉ. जिवराज मेहता स्मारक हैल्प फाउण्डेशन अहमदाबाद आपने वैज्ञानिक अनुसंधान सम्बन्धी कार्यक्रमों की कार्यक्रम विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोग के लिए अधिक कठित माना जाए और उसे सूचित किया जाए।
- यह कि उक्त एमोसिएशन आपनी कुल आम तथा अद्य दण्डित हृषि अपने संपर्कात्मक कार्यक्रमों द्वारा अपनी प्रतिवर्षित विनाशित वर्षों के एक-एक प्रति प्रति वर्ष 30 जून तक विहित प्राधिकारों के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति विवरण प्रत्यक्ष कर बोर्ड, नई दिल्ली, आपकर भवनिकेश (द्वारा), कलकत्ता विवरण कर दिया जाएगा।
- यह कि उक्त एमोसिएशन केवल विवरण प्रत्यक्ष कर बोर्ड, विभागीय प्रत्यक्षकर बोर्ड, विभागीय प्रत्यक्षकर बोर्ड, नई दिल्ली, आपकर भवनिकेश (द्वारा), कलकत्ता विवरण कर दिया जाएगा।
- यह कि उक्त एमोसिएशन केवल विवरण प्रत्यक्षकर बोर्ड, विभागीय प्रत्यक्षकर बोर्ड, विभागीय प्रत्यक्षकर बोर्ड, नई दिल्ली, आपकर भवनिकेश (द्वारा), कलकत्ता विवरण कर दिया जाएगा।

एमोसिएशन

डॉ. जिवराज मेहता स्मारक हैल्प फाउण्डेशन अहमदाबाद।

यह अधिकृत दिनांक 1-4-88 से 31-3-89 तक को प्रतिधित के लिए प्रभावी है।

[म. 8303 (फ. नं. 203/82/88-प्रत्यक्ष नि. -II)]

INCOME TAX

New Delhi, the 30th March, 1989

S.O. 2418.—In continuation of this Office Notification No. 7396 (F. No. 203/51/87-ITA. II) dated 1-7-1987 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (iii) of sub-section (1) of Section 35 (Thirty Five One/Three) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules 1962 under the Category "Institution" subject to the following conditions:—

- That Dr. Jivraj Mehta Smarak Health Foundation, Ahmedabad will maintain a separate account of the sums received by it for scientific research.
- That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets, liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi,

DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.

(iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

ASSOCIATION

This Notification is effective for a period from 1-4-1988 to 31-3-89.

[No. 8304 F. No. 203/82/88-ITA-II]

का.पा. 2419.—इस कार्यालय की वितांक 21-3-88 को प्रधिमूचना सं. 7804 (फा.सं. 203/104/87-प्रा.कर.नि.-II) के अनुक्रम में, सर्व ताथारण की जानकारी के लिए एतद्वारा यह प्रविसूचित किया जाता है कि विहित प्राधिकारी प्रयत्न वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर प्रधिनियम, 1961 की धारा 35 की उपधारा (i) के लिए (ii) (वैतीस/एक/तीन) के प्रयोजनों के लिए “इन्स्टीट्यूट्यून” प्रदान के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है :—

(i) यह कि इन्स्टीट्यूट आफ कम्प्यूनिकेशन एंड सोशियोलॉजिकल रिसर्च, नई दिल्ली अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पूरक लेन्डा रखेगा।

(ii) यह कि उक्त इन्स्टीट्यूट अपने वैज्ञानिक अनुसंधान सम्बन्धी कार्यकारों की वार्षिक विवरणों, विहित प्राधिकारी को प्रत्येक विस्तृत वर्ष के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिकृत किया जाए और उसे सूचित किया जाएगा।

(iii) यह कि उक्त इन्स्टीट्यूट अपनी कुल आय तथा अपनी परिसम्पत्तियां देवनवारियां दर्शाते हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन वस्तावेभौं में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रश्नकार विभाग, नई दिल्ली, आयकर महानिदेशक (छूट) कलकत्ता, तथा सम्बंधित आयकर आयकर के पास भेजे गा।

(iv) यह कि उक्त इन्स्टीट्यूट केन्द्रीय प्रश्नकार कर बोर्ड, वित्त मंत्रालय (प्रश्नविभाग) नई दिल्ली तथा आयकर महानिदेशक (छूट), कलकत्ता को अनुमोदित की समर्पित से पूर्व अनिरिक्षित अवधि बढ़ाने के लिए आवेदन फरेगा अनुमोदित की समर्पित की तारीख के पश्चात प्राप्त होने वाले पत्रों को रद्द कर दिया जाएगा।

इन्स्टीट्यूट्यून

इन्स्टीट्यूट्यून आफ कम्प्यूनिकेशन एंड सोशियोलॉजिकल रिसर्च 6, प्रकावर 11, नई दिल्ली-11

रह प्रधिमूचना वितांक 1-4-89 से 31-3-89 तक की अवधि के लिए प्रमाणी है।

[S. 8307/(i) म. 203/47/88-प्रा.कर.नि.-II]

S.O. 2419.—In continuation of this Office Notification No. 7804 (F. No. 203/104/87-ITA. II) dated 21-3-88 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) or sub-section (1) of Section 35 (Thirty Five) (One/Three) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category “Institution” subject to the following conditions :—

(i) That Institute of Communication and Sociological Research, New Delhi will maintain a separate account of the sums received by it for scientific research.

(ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.

(iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets and liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.

(iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION

Institute of Communication and Sociological Research, 6, Akbar Road, New Delhi-11.

This Notification is effective for a period from 1-4-1988 to 31-3-89.

[No. 8307 (F. No. 203/47/88-ITA-II)]

नई विल्ली 31 मार्च, 1989

का.पा. 2420.—इस कार्यालय की वितांक 29-12-86 की प्रधिमूचना सं. 7075 (फा.सं. 203/243/86-प्रा.कर.नि.-II) के अनुक्रम में, सर्व ताथारण की जानकारी के लिए एतद्वारा यह प्रविसूचित किया जाता है कि विहित प्राधिकारी प्रयत्न वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम, 1962 के नियम 6 के साथ पठित आयकर प्रधिनियम, 1961 की धारा 35 की उपधारा (i) के लिए (ii) (वैतीस/एक/दो) के प्रयोजनों के लिए “एसोसिएशन” प्रदान के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है :—

(i) यह कि के.ई.एम. हास्पीटल रिसर्च सेंटर, पूर्ण अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पूरक लेन्डा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान सम्बन्धी कार्यकारों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक विस्तृत वर्ष के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिकृत किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा व्यय वसायि द्वारा संपरीकृत वार्षिक लेखों की तथा अपनी परिसम्पत्तिया, वेतनदारियां वसाते हुए तुलनात्मक की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन वस्तावियों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर दीज, नई दिल्ली, आयकर महानिदेशक (कूट), कलकता तथा सम्बंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्ष कर दीज, वित्त मंत्रालय (राजस्व विभाग) नई दिल्ली तथा आयकर महानिदेशक (कूट), कलकता को अनुमोदन की समाप्ति से पूर्व प्रतिरिक्षित अवधि बढ़ाने के लिए आवेदन करेगा अनुमोदन की समाप्ति की तारीख के पश्चात प्रातः होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

एसोसिएशन

के.ई.एम.हास्पीट्स रिसर्च सेटर, सरदार मुदालियर रोड, रास्ता पेठ, पुणे

यह अधिकृतना दिनांक 1-4-89 से 31-3-89 तक की प्रवधि सिए प्रभावी है।

[स. 8312(का. स. 203/54/89-आयकर नि. II)]

निशि नायर, आयकर सचिव

New Delhi, the 31st March, 1989

S.O. 2420.—In continuation of this Office Notification No. 7075 (F. No. 203/243/86-ITA. II) dated 29-12-86 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions :—

- That K.E.M. Hospital Research Centre, Pune will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.
- That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

ASSOCIATION

K.E.M. Hospital Research Centre, Sardar Mudaliar Road, Rasta Peth, Pune.

This Notification is effective for a period from 1-4-1988 to 31-3-89.

[No. 8312 (F. No. 203/54/89-ITA-II)]

NISHI NAIR, Under Secy.

नई दिल्ली, 13 जून, 1989

का.आ. 2421.—इस कार्यालय की दिनांक 1-8-1986 की अधिकृतना, स. 6830 (का.स. 203/117/86-आयकर (नि. II)) के अनुत्रम में सर्व साधारण की जानकारी के लिए एवं दिल्ली यह प्रधिसूचित किया जाता है कि विहित प्राधिकारी अर्थात् देशनिक आयकर आयोगवा अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम, 1962 के नियम 6 के साथ पालि आयकर प्रधिनियम, 1961 की धारा 35 की उपधारा (1) के द्वारा (ii) (परीक्षा/क्र/थो/तीन) के प्रयोजनों के लिए "एसोसिएशन प्रबंधन के अधीन निम्नलिखित शर्तों पर अनुमोदित" किया है :—

- यह कि एसोसिएशन कार्यालय का एक टकनीकीय आयकर रिसर्च फाउण्डेशन कार्यालय अपने देशनिक अनुसंधान सम्बंधी कार्य-कालायों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बन्ध में प्रति वर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिकृत किया जाए और उसे सूचित किया जाए।
- यह कि उक्त एसोसिएशन अपने देशनिक अनुसंधान सम्बंधी कार्य-कालायों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बन्ध में प्रति वर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिकृत किया जाए और उसे सूचित किया जाए।
- यह कि उक्त एसोसिएशन अपनी कुल आय तथा व्यय वसाते हुए अपने संपरीकृत वार्षिक लेखों की तथा अपनी परिसम्पत्तिया, वेतनदारियां वसाते हुए तुलनात्मक की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन वस्तावियों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर दीज, नई दिल्ली, आयकर महानिदेशक (कूट), कलकत्ता तथा सम्बंधित आयकर आयुक्त के पास भेजेगा।
- यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्षकर दीज, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिदेशक (कूट), कलकत्ता को प्रतिरिक्षित अवधि बढ़ाने के सिए आवेदन करेगा।

एसटीट्यूशन/एसोसिएशन

एनम साइंटिफिक एण्ड टैक्नोलॉजीजल एप्लाइ रिसर्च फाउण्डेशन कार्यालय

यह अधिकृतना दिनांक 1-4-87 से 31-3-1989 तक की प्रवधि के सिए प्रभावी है।

[स. 8390(का.स. 203/109/8-आयकर नि. II)]

New Delhi, the 13th June, 1989

S.O. 2421.—In continuation of this Office Notification No. 6830 (F. No. 203/117/86-ITA. II) dated 1-8-1986 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions :—

- That Anam Scientific & Technological Applied Research Foundation, Kadiyam will maintain a separate account of the sums received by it for scientific research.
- That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms

as may be laid down and intimated to them for this purpose by 31st May each year.

- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets and liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta for further extension.

ASSOCIATION

Anam Scientific Technological Applied Research Foundation, Kadiyam.

This Notification is effective for a period from 1-4-1987 to 31-3-89.

[No. 8390 (F. No. 203/109/88-ITA-II)]

का.आ. 2422 :—इस कार्यालय की दिनांक की अधिसूचना स. का सं. प्रा.कर नि-II) के अनुक्रम में, सर्व साधारण की जामकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी प्रथम् वैज्ञानिक और श्रीधारिग अनुसंधान विभाग, नई दिल्ली, ने तिम्लिखित संस्थाको आयकर नियम 1968 के नियम 6 के साथ परिव आयकर अधिनियम, 1961 की धारा 35 की उपधारा (I) के अण्ड (ii) (त्रैतीयएक/दो) के प्रयोजनों के लिए "संस्था" प्रबंध के अधीन तिम्लिखित शर्तों पर अनुमोदित किया है :—

(i) यह कि दिन इंस्ट्रॉयूट रिसर्च सोसाइटी, एन. ब्लाक, प्रेटर कॉलाज-1, नई दिल्ली अपने वैज्ञानिक अनुसंधान के लिए सर्व द्वारा प्राप्त राशियों का पुरुष क्षेत्रा रखगा।

(ii) यह कि उक्त संस्थान अपने वैज्ञानिक अनुसंधान सम्बंधी कार्यकालांकों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रवर्त्तों में प्रस्तुत होए। जो इस प्रयोजन के लिए प्रधिकृत किया जाए, और उसे अधित किया जाए।

(iii) यह कि उक्त संस्थान अपनी कुल आय तथा व्यय वर्षाते हुए अपने संपरीक्षित वार्षिक क्षेत्रों की तथा अपनी परिस्थितियों, देनदारियों दरमति हुए तुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर देंगे, नई दिल्ली, आयकर महानिदेशक (कूट), कलकत्ता तथा सम्बंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त संस्थान केंद्रीय प्रत्यक्षकर दोंडे, वित्त मंत्रालय (राजस्व विभाग), नई विली तथा आयकर महानिदेशक (कूट), कलकत्ता को अनुमोदन की समाप्ति से तीन माह पूर्व अतिरिक्त अवधि ददाने हें लिए आवेदन करेगा अनुमोदन की समाप्ति की सार्वत्रिक के पश्चात प्राप्त होने वाले आवेदन पत्रों की रक्षा कर दिया जाएगा।

इंस्ट्रॉयूट/एसोसिएशन

रिकम हस्टीट्यूट रिसर्च सोसायटी; एन. ब्लाक प्रेटर कॉलाज-1, नई दिल्ली

यह अधिसूचना दिनांक 23-3-89 में 31-3-89 तक की प्रक्रिया के लिए प्रभावी है।

[सं. 8389(फा.सं. 203/212/87-आयकर नि.-II)]

रोशन सहाय, उप सकिव

S.O. 2422.—In continuation of this Office Notification No. hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Institution" subject to the following conditions :—

(i) That Skin Institute Research Society, N-Block, Greater Kailash I, New Delhi will maintain a separate account of the sums received by it for scientific research.

(ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.

(iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets and liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.

(iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta for further extension.

INSTITUTION

Skin Institute Research Society, N-Block, Greater Kailash-I, New Delhi.

This Notification is effective for a period from 23-3-1989 to 31-3-89.

[No. 8389 (F. No. 203/212/87-ITA-II)]

ROSHAN SAHAY, Dy. Secy.

(राजस्व विभाग)

नई दिल्ली, 1 सितम्बर, 1989

आदान

स्टाम्प

का.आ. 2423.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के अण्ड (क) द्वारा प्रवत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उस शुल्क को माफ करती है जो कि तमिलनाडु विजली बोर्ड द्वारा जारी किए जाने वाले आठ करोड़ और इक्सठ लाख ६. माल मूल्य के "11.50 प्रतिशत तमिल नाडु विजली बोर्ड अण्ड, 2009" (५१वां अण्ड) के अनु में अग्रिम प्रमितरी नोटों के रूप में बांडों पर उक्त अधिनियम के प्रस्तरीत प्रभावी है।

[सं. 52/89-स्टाम्प फा.सं. 33/47/89, किंकी कर]

(Department of Revenue)

New Delhi, the 1st September, 1989

ORDERS

STAMPS

S.O. 2423.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of Promissory Notes

described as "11.50 percent Tamil Nadu Electricity Board Loan, 2009" (51st Loan) of the value of rupees eight crores and sixty one lakhs only to be issued by Tamil Nadu Electricity Board are chargeable under the said Act.

[No. 52/89-Stamp-F. No. 33/47/89-ST]

का. आ. 2424—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (क) द्वारा प्रदत्त गतियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उस शुल्क को माफ करती है जो राज्यीय लक्ष्य उद्योग निगम, नई दिल्ली द्वारा किए जाने वाले चार करोड़ रु. मात्र भूत्य के "आई. बी. बी. आई. लूण 4.00 करोड़ रु. 1989 (तृतीय अख्तला)" के रूप में वित्त प्रेमिकारी नोटों के रूप में बंधपत्रों पर उक्त अधिनियम के वास्तविक प्रभार्य है।

[स. 51/89. स्टाम्प, का. सं. 33/43/89. बिनी कर]
बी. आर. मेहमी, प्रबन्ध सचिव

S.O. 2424.—In exercise of the powers conferred by section (a) of sub-section (1) of section 9 of the Indian Stamps Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of Promissory Notes described as "IDBI Loan—Rs. 4.00 crores 1989 (Third Series)" of the value of rupees four crores only to be issued by the National Small Industries Corporation, New Delhi are chargeable under the said Act.

[No. 51/89-Stamp-F. No. 33/43/89-ST]
B. R. MEHMI, Under Secy.

(आधिकारीक धार्य विभाग)

(हैंडिंग प्रभाग)

नई दिल्ली, 8 सितम्बर, 1989

का. आ. 2425—बैंककारी विनियम अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त गतियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक की विधायिका पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 19 की उपधारा (2) के उपवर्त्य बैंक माफ बड़ीदा पर, 15 अगस्त, 1991 तक उन सीमा तक लागू नहीं होगे जहाँ तक उनका संबंध नीनीताल बैंक लिं., तथा बरेली कारपोरेशन बैंक लिं., में शेयरों की उनकी व्याप्रिता से है।

[सं. 15/8/89-बो. भो. -III]
प्राण नाथ, प्रबन्ध सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 8th September, 1989

S.O. 2425.—In exercise of the powers conferred by section 53 of the Banking Regulation Act 1949 (10 of 1949) the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (2) of section 19 of the said Act shall not apply to Bank of Baroda upto 15th August 1991 in so far as they relate to its holding of shares in the Nainital Bank Ltd., and also in the Bareilly Corporation Bank Ltd.

[No. 15/8/89-B.O. III]
PRAN NATH, Under Secy.

कृषि मंत्रालय

(कृषि और सहकारिता विभाग)

प्रबन्ध

नई दिल्ली, 15 सितम्बर, 1989

का. आ. 2426—उर्वरक नियंत्रण आवेदन, 1985 की धारा 2 की उपधारा (3) के अनुसार में केन्द्र सरकार श्री रवि सोहन सेठी, संयुक्त सचिव (उर्वरक) कृषि मंत्रालय, (कृषि और सहकारिता विभाग) को श्री जी. रंगा राव के स्थान पर उर्वरक नियंत्रक नियुक्त करती है।

[संख्या 1-9/89 उर्वरक विभाग]
राकेश जैन, प्रबन्ध सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture and Cooperation)

ORDER

New Delhi, the 15th September, 1989

S.O. 2426.—In pursuance of sub-clause (e) of clause 2 of the Fertiliser (Control) Order, 1985, the Central Government hereby appoints Shri R. M. Sethi, Joint Secretary (Fertilisers) Ministry of Agriculture (Department of Agriculture and Cooperation) as Controller of Fertilisers vice Shri G. Ranga Rao.

[No. 1-9/89-Fert. Law]
RAKESH JAIN, Under Secy.

मानव संसाधन विकास मंत्रालय

(शिक्षा विभाग)

नई दिल्ली, 22 अगस्त, 1989

का. आ. 2427—यास्तुकला अधिनियम, 1972 (1972 का अधिनियम 20) के खंड 3 के उपखंड (1) द्वारा प्रदत्त गतियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उक्त अधिनियम के खंड 3 के उपखंड (3) की धारा (क) के अन्तर्गत मंस्थान का प्रतिनिधित्व करने के लिए यास्तुकला परिषद् के सदस्यों में से भारतीय यास्तुकला मंस्थान द्वारा निवाचित/युनिवर्सिटि के रूप में मान्यताप्राप्त प्राइंटा रखने वाले निम्नलिखित पांच यास्तुकलाओं को नामित करती है:—

1. श्री यातीस श्रीनिवास विनाई,

मैसर्स किंसी एंड कम्पनी,

134, नवीनवास मास्टर रोड,

बम्बई-400023.

2. श्री शिरीय ग्रामान्धम देशपांडे,

88 क्रैस्ट वार्क रोड, घरलतोली,

नागपुर-440012.

3. श्री अखिनर मुस्तैन मोहम्मद भाई औहान,

कास्ट्रीहैन्सीव डेशपमेन्ट कम्पनीटेसी सर्विसेस,

प्राइवेट लिमिटेड,

1/6 अन्डरेंड रोड, मलाह (सेस्ट)

बम्बई-100064.

4. श्री अम्बिकान्त केशव गुमाले,

"कास्ट्रीकॉमा" ग्रामान्ध फ्लॉर,

मीयर शिवाली पार्क टेलीफोन एक्सचेंज,

मालत पाटिल रोड, ग्रामान्ध गोखने रोड,

(एन) दादर, बम्बई-400028.

3 ग्रा. देहरादून मरुपान नायेडा,
फेवरी मलू, 13, मरुपान मिल्ला भारी,
ब्रह्मपुर्ण-400001.

उन मरम्भों के, जिनके नाम अम शेखा 1 और 5 में उल्लिखित हैं कि उक्त अधिनियम के अंड 6 के उप अंड (5) के अन्तर्गत यूपरी अवधि के लिए परिषद् में फिर से निर्वाचित किया गया है।

2. अधिपि केन्द्रीय सरकार आगे यह भी निर्विष्ट करती है कि मेरी सभी सदस्य उक्त अधिनियम के अंड 6 के उप अंड (1) के अन्तर्गत तीन वर्ष की अवधि तक कार्य करेंगे जो 4 अगस्त, 1989 अवधि निर्वाचित पुर्मिलिन्वाचित की तारीख से प्रारम्भ होगी और 3 अगस्त, 1992 तक अध्यवा लड़ तक उस पद के लिए दूसरे चुन नहीं लिए जाते इनमें से जो भी आवा जा तो उस तक रहेगी।

[सं. एक. 16-7/88-टी.-12]

डा. के. गोपालन, मरुपान शिक्षा मलाहकार (टी)

MINISTRY OF HUMAN RESOURCE DEVELOPMENT
(Department of Education)

New Delhi, the 22nd August, 1989

S.O. 2427.—In exercise of the powers conferred by sub-section (1) of section 3 of the Architects Act, 1972 (Act 20 of 1972), the Central Government hereby notifies the following five architects possessing recognised qualifications as elected/re-elected by the Indian Institute of Architects from among its members, to the Council of Architecture, to represent the Institute under clause (a) of sub-section (3) of section 3 of the said Act, namely :—

1. Shri Yatish Shrinivas Kini,
Messrs S. M. Kini and Company,
134, Nagindas Master Road,
Bombay-400023.
2. Shri Shreesh Atmaram Deshpande,
88, West Park Road, Dhantoli,
Nagpur-440012.
3. Shri Akhtrabussain Mohammadbhaji Chauhan,
Comprehensive Development Consultancy,
Services Private Limited,
1/6, Underai Road, Malad (West),
Bombay-400064.
4. Shri Chandrakant Keshav Gumaste,
'Kshatraikya' Ground Floor, Near
Shivaji Park Telephone Exchange,
Amant Patil Road, Office Gokhale Road (N), Dadar,
Bombay-400028.
5. Shri Natwarlal Amritlal Badheka,
Fairy Manor, 13, Rustom Sidhwa Marg,
Bombay-400001.

The members whose names are mentioned at serial numbers 1 and 5 have been re-elected to the Council for the second consecutive term, under sub-section (5) of section 6 of the said Act.

2. The Central Government hereby further specifies that all the members will hold office under sub-section (1) of section 6 of the said Act for a term of three years, commencing from the 4th April, 1989, i.e. the date of their election/re-election, and upto the 3rd April, 1992 or until their successors have been duly elected, whichever is later.

[No. F. 16-7/88-T-12]

Dr. K. GOPALAN, Jt. Educational Adviser (T)

अमर भारतीय

नई दिल्ली, 4 सितम्बर, 1989

का. शा 2428 ---शीघ्रोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के प्रत्यावरण में, केन्द्रीय मरुपान मेल और प्राकृतिक गेस, आयोग, देहरादून के प्रबंधनत गेस बंदू नियोजकों और उनके कर्मकारों के बीच अनुवन्ध में निर्विट शीघ्रोगिक विवाद में मि. अस्ट्रील श्री वी. एम. देशपांडे, भूतपूर्व मृत्यु न्यायालय दिल्ली हाईकोर्ट और सम्प्रत्यक्ष के पंचांग को प्रकाशित करती है, जो केन्द्रीय सरकार को 31 अगस्त, 1989 को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 4th September, 1989

S.O. 2428.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of Mr. Justice Shri V. S. Deshpande, Former Chief Justice, Delhi High Court and Arbitrator, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Oil and Natural Gas Commission, Dehradun and their workmen, which was received by the Central Government on 21st August, 1989.

ANNEXURE

IN THE MATTER OF ARBITRATION

BETWEEN

OIL & NATURAL GAS COMMISSION, TEL BHAVAN,
DEHRADUN

AND

ITS WORKMEN REPRESENTED BY—

1. PETROLEUM EMPLOYEES UNION, BOMBAY
2. ONGC EMPLOYEES UNION, AHMEDABAD
3. ONGC EMPLOYEES ASSOCIATION, ANKLESHWAR
4. ONGC PURBANCHAL EMPLOYEES ASSOCIATION, SIBSAGAR, AND
5. NATIONAL UNION OF ONGC, DEHRADUN

BEFORE THE SOLE ARBITRATOR SHRI V. S. DESHPANDE (FORMER CHIEF JUSTICE DELHI HIGH COURT) APPOINTED ON THE AGREEMENT OF THE PARTIES BY THE GOVERNMENT OF INDIA UNDER S. 10-A(4) OF THE INDUSTRIAL DISPUTES ACT 1947 AS AMENDED

THE AWARD

Submitted to the Central Government under Section 10-A (4) of the said Act.

THE REFERENCE

By the Gazette Notification dated 30th of March 1989 as per the written agreement of the parties under S. 10-A(4) issued under S. 10-A(3) of the Act, the following reference was made to me as the arbitrator by the Government of India, Ministry of Labour :—

"Whether the claim of the workmen to seek upward revision in D.A. rate of Rs. 1.30 per point for the range group of 292 points representing the difference between CPI 200 and 492 arises and is maintainable in pursuance of the clause No. 4.5 relating to the period of status quo in the D.A. rate as incorporated

in Memorandum of Settlement dated 18-11-83 between the Management of the Oil and Natural Gas Commission on one side and their workmen on the other, and in the context of the Government of India's decision dated 16th April 1985 on the report of the Tripartite DA Committee constituted for reviewing the then existing DA formula for employees of Central Public Enterprises and its implementation by ONGC.

The workmen contend that the clause 4.5 of the Memorandum of Settlement dated 18-11-83 is in continuation of and should be read with clause 4.2.2 on the same issue as incorporated in the Memorandum of Settlement dated 22-11-79. The Management contends that the above referred to clause of Memorandum of Settlement dated 22-11-79 stands superseded in the light of the fresh agreement dated 18-11-83.

Therefore, the points for arbitration are :—

- Whether the claim of the workmen arises and is maintainable, and
- if so, to what extent and with effect from which date ?

ANALYSIS OF THE REFERENCE

- The specific question referred to arbitration is the interpretation of Clause 4.5 of the Memorandum of Settlement between the parties dated 18th November 1983 effective from 1st April 1983.
- This interpretation is to be done in the context of the Government of India's decision dated 16th of April 1985 on the report of the Tripartite D.A. Committee envisaged in Clause 4.5.
- Contentions of the parties—The labour unions contend that Clause 4.5 of the Settlement dated 18-11-1983 is in continuation of and should be read with clause 4.2.2 on the same issue of the Memorandum of Settlement dated 22-11-1979. On the other hand, the management of the ONGC contends that clause 4.2.2 of the Settlement of 22-11-1979 stands superseded in the light of the Settlement dated 18-11-1983.

THE FIRST ISSUE

The first issue for consideration, therefore, is "whether the claim of the workmen arises and is maintainable".

MEANING OF A SETTLEMENT

Since the reference is concerned with the interpretation of clause 4.5 of the Settlement of 18-11-1983 the meaning of "settlement" should be precisely understood. S. 2(p) defines "Settlement" to mean a settlement arrived at in the course of conciliation proceedings and includes a written agreement between the employer and the workmen arrived at otherwise than in the course of conciliation proceedings where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate government and the conciliation officer".

Printed copies of the settlement of 1979 and 1983 have been produced before me. They have to be considered as a whole. For, the meaning of clause 4.5 of the settlement of 1983 and of clause 4.2.2 of the settlement of 1979 cannot be understood in isolation. Each of these clauses are parts of the respective settlement as a whole. Each of these clauses has therefore to be considered in the light of the other provisions of each of these settlement which have a bearing on their meaning.

SEQUENTIAL TREATMENT

It is also necessary to treat the settlements of 1979 and 1983 sequentially since they are parts of a methodical treatment of the subject of Dearness Allowance in accordance with the settlements arrived at between the parties from time 2578 GL/89—4.

to time. All these settlements are connected with each other because each provides for a period of time and is succeeded by the next settlement so that there is a continuity among them. Each is therefore to be understood in the context of the previous settlement which was replaced and succeeded by it.

OTHER RELEVANT CLAUSES

The scheme of each of the settlements of 1979, 1983 and 1987 is according to a fixed pattern. In this pattern clauses 4.2.2 of the 1979 Settlement and 4.5 of the 1983 Settlement have to be read with other related clauses of these settlements. Then only the scheme regarding the payment of Dearness Allowance will be fully understood. Let us take each of the settlements of 1979, 1983 and 1987 to see if a fixed scheme inheres each of these settlements. A reading of the provisions relating to the Dearness Allowance in each of these settlements discloses the following pattern :—

- The rate of DA is fixed for the period of four years of the settlement. This is done by clause 4.2.1 of the 1979 Settlement, clause 4.2 of the 1983 Settlement and clause 4.1 of the 1987 Settlement.
- The point of the Consumer Price Index upto which the revised pay-scale in which the DA is merged is payable is fixed at point 200 of the Consumer Price Index in clause 4.2.1 of the 1979 Settlement and clause 4.2 of the 1983 Settlement. This point 200 is substituted by point 608 of CPI in clause 4.1 of the 1987 Settlement because the merger of the DA in the revised pay-scale again took place with effect from 14-1987 by the agreement of 14th of July 1989. This development is only to be noted because it is beyond the terms of my reference.
- It is only if due to an external cause there is a change in the rate of the DA that the finality of the rate of DA fixed for the 4 years of the settlement is to be modified to give effect to the external change. The external change envisaged in clause 4.2.2 of the 1979 Settlement was as follows :—

"If any change in the neutralisation formula for DA is agreed to for Public Sector Enterprises which are currently having DA neutralisation at Rs. 1.30 per point".

Such a change did not happen during the four years period of the 1979 Settlement. The Settlement of 1979 thus became conclusive regarding the rate of the DA. This is admitted by the Labour Unions and hence no claim is made before me for enhancement of the rate of the DA during the four years period of the 1979 Settlement.

The external cause of the change contemplated in clause 4.5 of the 1983 Settlement was as follows :—

"Both the parties agree to maintain status quo regarding the rate of Variable Dearness Allowance (i.e. Rs. 1.30 per point) till the Committee appointed by the Government of India for reviewing Industrial Variable Allowance for Public Sector workmen submits its report and a decision is taken by the Government".

It is not said in clause 4.5 that the report of the Tripartite Committee and the decision taken on it by the Government will be disallowable. The reason is that the Labour Unions are parties to the Tripartite Committee and a unanimous recommendation is made by the Committee which is accepted and given effect to by the Government. This is why the decision of the Government is an integral part of the fixation of the rate of DA in clause 4.5. It means that when this change comes about the rate decided on by the Government will be substituted in place of the rate agreed to by the parties. For, the substituted rate is also the result of the agreement of the parties arrived at in the Tripartite Committee.

- The rate of the DA so fixed cannot be changed and a demand for a change in the rate of the DA fixed

for four years cannot be made by the labour Unions. This follows from clauses 12 and 13 of the 1979 Settlement, clauses 16 and 17 of the 1983 Settlement and clauses 17 and 18 of the 1987 Settlement. It is specifically stated in clause 13.2 of the 1979 Settlement and clause 17.3 of the 1983 Settlement as follows :—

"The Commission and the Unions agree that during the validity of this Settlement : (a) no demand will be made in respect of matters covered by this Memorandum of Settlement".

The matter of the fixation of the rate of DA was covered by these settlements. No demand could therefore be made concerning the rate of the DA.

(c) It is reiterated in clause 16.4 of the 1983 Settlement that—

"No demand, which relates to the period covered by the present Settlement shall, however, be entertained".

SETTLEMENTS LEGALLY BINDING

Settlements are contracts. The essence of a contract is that the parties are bound by it. In addition to this general law S. 18(1) of the Industrial Disputes Act, 1947 says that—

"A settlement arrived at by agreement between the employer and the workmen otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement".

S. 19(2) of the said Act also says :—

"Such settlement shall be binding for such period as is agreed upon by the parties".

In State of Bihar v. D. N. Ganguly 1958-2 LLJ 634 at 640 the Supreme Court observed that—

"It would be unreasonable to assume that the Industrial Tribunal would insist upon dealing with the dispute on merits even after it is informed that the dispute has been amicably settled between the parties".

It is for this reason that the reference made to me is framed in very narrow terms. I have only to interpret clause 4.5 of the 1983 Settlement in the context of the decision taken on it by the Government on the 16th of April 1985. For, the report of the Tripartite Committee and the decision of the Government thereon are also a part of clause 4.5. The reason for the narrow reference is that it is recognised that the Settlement of 1983 is binding on the parties. Only its meaning is to be interpreted. Any relief to be given to the labour Unions must be within this interpretation. That is to say, I cannot travel beyond the interpretation and decide anything outside the interpretation on merits.

INTERPRETATION/IMPLEMENTATION

Shri Raja Kulkarni, the veteran labour leader and intellectual who led the representatives of the labour Unions in the arbitration before me, had at first relied upon clause 4.22 of the 1979 Settlement as enabling the labour Unions to negotiate with the Management. But during the course of the argument, he admitted that the labour Unions were not seeking any rise in the rate of the DA beyond the point 200 during the period of the four years, 1979-1983 for which the 1979 Settlement lasted. The reason is that the negotiations could have taken place only "if any change in the neutralisation formula for DA is agreed to for Public Sector Enterprises". This event did not happen during 1979-83. The happening of this event was a condition precedent to negotiations. Since it did not happen, there could be no negotiations. This realisation has taken away the basis of the contention reflected in the reference that clause 4.5 of the Settlement of 18-11-1983 should be construed as being in continuation of and should be read with clause 4.2.2 of the 1979 Settlement. If the 1979 Settlement became final and on the expiry of its four years period it was substituted

and replaced by the 1983 settlement, S. 62 of the Contract Act 1872. S. 62 says—

"If the parties to a contract agree to substitute a new contract for it or to rescind or alter it, the original contract need not be performed".

This is called a novation. In *Union of India v. Kishorilal Gupta* AIR 1959 SC 1362 the question was whether the arbitration clause which was contained in the previous contract which was substituted and replaced by a fresh contract which fresh contract did not contain an arbitration clause, could be read into the new contract. The Supreme Court decided that due to the novation no term of the contract which has been replaced and substituted by another contract could be read into the new contract. This would mean that the contention of the labour Unions that clause 4.2.2 of the 1979 Settlement should be read as a context for the interpretation of clause 4.5 of the 1983 Settlement is not correct. This is why in framing the reference only the contention of the labour Unions is reproduced but the context for the interpretation of clause 4.5 of the 1983 Settlement is stated to be the decision of the Government dated the 16th of April 1985 on the report of the Tripartite Committee because the decision and the Report are made a part of clause 4.5 itself.

Shri Kulkarni rightly points out to clause 18 of the 1983 Settlement titled "Implementation/Interpretation of Settlement". Clause 18.2 says :—

"In case of any dispute regarding implementation of the Settlement or interpretation of any of its provisions, both parties shall resolve their differences through mutual negotiations".

For the interpretation, the reference has been made to arbitration because the parties could not mutually agree on an interpretation through negotiations. But there is no reference regarding the implementation of the Settlement of 1983 as modified by the Government decision of the 16th of April 1985.

INTERPRETATION

Interpretation is only ascertaining of the meaning. The important words of clause 4.5 are "the status quo". Shri Kulkarni would have liked these words to include not only the rate of DA fixed at Rs. 1.30 per point but also the liberty given to the labour Unions by clause 4.2.2 of the 1979 Settlement for negotiations. It is not possible for me to accept the contention that the liberty of negotiation is also included in the expression "status quo". The reasons are two-fold. Firstly, clause 4.5 itself defines what is "status quo". It restricts the meaning of status quo by the words "i.e. Rs. 1.30 per point". Therefore only the rate and not the liberty of negotiation is included in the expression "status quo". Secondly, the liberty of negotiation in clause 4.2.2 of the 1979 Settlement was conditional and not absolute. The liberty could arise only if any change in the neutralisation formula for DA is agreed to for Public Sector Enterprises. This event did not take place. Consequently the liberty did not arise. This was known when the Settlement of 1983 was agreed to. Therefore the parties to the Settlement could not have intended that any liberty of negotiation would be included in the expression "status quo". Therefore in interpreting clause 4.5 no liberty of negotiation can be assumed to be contained in clause 4.5.

Clause 4.5, however, contemplates that this status quo i.e. Rs. 1.30 per point was to be maintained only "till the Committee appointed by the Government of India for reviewing Industrial Variable Dearness Allowance for Public Sector workmen submits its report and a decision is taken by the Government". Shri Kulkarni argues that there was no status quo after the decision of the Government dated 16th April, 1985 applying the new rate of DA, namely Rs. 1.65 per point from 1st of April, 1983 beyond point 492. By this argument Shri Kulkarni means that the Settlement of 1983 is somehow unsettled and the labour Unions can negotiate that the decision to grant the higher rate of DA from point 492 onwards leaves the range of 292 points between point 200 and point 492 uncovered by the enhancement and that it should be covered by the enhancement.

IS IT INTERPRETATION

Is the demand of the workmen that the rate of Rs. 1.65 per point should be made applicable to the 292 points between point 200 and point 492, a matter of interpretation of either clause 4.5 or the decision of the Government which provides for context for the interpretation of clause 4.5. what is interpretation ? It is to ascertain the meaning. The meaning is that the rate of Rs. 1.30 fixed for the four years of the Settlement of 1983 is substituted by the rate of Rs. 1.65 from 1-4-1983. This substitution is also for the four years period of the Settlement of 1983. This is not expressly stated in the Government decision reproduced in the Office Memorandum dated 16th April, 1985 issued by the Government of India, Ministry of Finance, Bureau of Public Enterprises. But this is the meaning of the following words :—

“The existing Industrial Dearness Allowance rate would be raised from Rs. 1.30 per point shift in AICPI to Rs. 1.65 per point shift. This will be effective from 1st April, 1983 and will apply to all increases in AICPI beyond 492 points”.

The existing rate was for the four-years period of the Settlement. The raising of it would also be for the four years period of the Settlement by necessary implication. This interpretation is confirmed by the settlement arrived at on the 14th of July 1989 made effective from 1st of April, 1987. This shows that a full period of four years was given to the Settlement of 1983 to operate. If the higher rate of Rs. 1.65 is expressly given in respect of points beyond point 492, what scope is there for any further interpretation ?

SILENCE OR NECESSARY INTERPRETATION

Shri Kulkarni argues that the Government decision is silent regarding points 200 to 492. But it is arguable for the NOGC that this silence does not mean that the parties are free to negotiate for raising the rate of the DA for points 200 to 492 for the period 1-4-1983 to 31-3-1987. Even if it is assumed for the sake of argument that there is a silence regarding the rate of the DA between points 200 to 492 from 1-4-1983 to 31-3-1987, this will only mean that the Settlement of 1983 did not make any provision for the rate of DA from points 200 to 492. But this argument also is untenable because clause 4.5 expressly stated that the rate of Rs. 1.30 per point which was the existing rate was to be maintained during the Settlement of 1983. This was subject to the condition that this rate could be varied by the Government on the recommendation of the Tripartite Committee. This variation is also a part of clause 4.5. Therefore the agreement to maintain the status quo necessarily implies that the rate of DA already fixed at Rs. 1.30 per point was to be maintained. If this rate was to be maintained during the 1983 Settlement as is expressly agreed in clause 4.5, how can it be said that clause 4.5 is silent regarding the rate of DA for points 200 to 492 ?

Shri Kulkarni argues that the silence is caused by the Government decision which replaces the status quo in clause 4.5. It would, however, appear that the Government decision is in accordance with clause 4.5. It does not wipe out clause 4.5 because this variation of the rate is provided by clause 4.5 itself. Therefore, this variation also would be for the period of the Settlement and, therefore, the status quo is varied only to the extent of the decision. Excepting this variation the status quo remains. The status quo after the variation means that the new rate is also to hold good for the period of the Settlement. The status quo has two elements, one is the rate and the other is the period of the settlement. The first element varies but the second element stands. It can be said, therefore, that the status quo stands with this variation.

Interpretation cannot mean that something which is not in clause 4.5 and in the decision of the Government which is the context of clause 4.5 can be considered by me in this reference. Interpretation has to be of the words of clause 4.5. It cannot be of a matter which is implied but is not expressed in clause 4.5. Even if the interpretation could be made of an implied matter, the implication is that the Government decision does not vary the rate in the range of

points 200 and 492. This necessarily follows from the following facts :—

- (1) The rate of Rs. 1.30 per point prevailed during the 1979 Settlement.
- (2) It was regarded as the status quo alongwith the period of 4 years in the 1983 Settlement.
- (3) The Government decision to grant higher rate of DA from point 492 onwards necessarily means that the higher rate was not to be granted between points 200 and 492.
- (4) The Tripartite Committee of which Shri Kulkarni was a member must have considered whether the enhanced rate should be made applicable from point 200 instead of from point 492. Since the Committee agreed that it should be enhanced from only point 492, the deliberations of the Committee will perhaps show that the decision not to grant enhanced rate for points 200 to 492 was not an act of forgetfulness but an act of deliberation.
- (5) The labour Unions have agreed to the enhancement being only from point 492. How can they now say that they still have the freedom to negotiate for raising the rate of DA for points 200 to 492.

It is not, therefore, possible to regard the demand for raising the rate of DA from point 200 to point 492 as a matter of interpretation of clause 4.5.

IMPLEMENTATION

Shri Kulkarni argues that in the scheme of DA framed by the ONGC there is no provision for giving differential rates of DA, namely Rs. 1.30 per point from point 200 to point 492 and Rs. 1.65 per point from point 492 onwards. It is not shown that any scheme of payment of DA exists in the ONGC by which it is agreed that only one rate of DA will be paid on all the points of the CPI. On the contrary, the DA is paid by the ONGC to the labour according to the recommendations of the Tripartite Committee implemented by the Government decision. This means that the parties have agreed that the rate of the enhanced DA should be only from point 492 onwards and it should not be from point 200 onwards during the period of the 1983 Settlement. Strictly speaking, there is no question of implementation. The Government decision is not implementation. The Government decision is a part of the agreement between the parties embodied in clause 4.5.

It cannot be said that the implementation of clause 4.5 requires consideration of the right of the DA to be paid from point 200 to point 492. The implementation only consists in paying the revised DA and this implementation is the subject of the OM dated 16th April, 1985. No objection has been raised by the labour Unions to this Office Memorandum. Hence no objection is raised to the implementation of clause 4.5.

CLAIM OF THE UNIONS

It is significant that the Unions are claiming enhanced rate of DA for the 292 points contained between 200 and 492 only for the period 1-4-1983 to 1-4-1987. Why ? Because they thereby admit that the period of the Settlement of 1979 and the rate of Rs. 1.30 per point paid in that period have become conclusive and cannot be re-opened. If this is so, what is the difference between the settlement of 1979 and 1983 which entitles the labour Unions to ask for an enhanced rate during the period of the 1983 Settlement ? The only difference is that while the event of increase in the rate of DA by an external cause did not take place during the 1979 Settlement, such an event took place during the 1983 Settlement. But this difference was contemplated and is covered by clause 4.5. Provision is made in clause 4.5 that the decision of the Government on the Tripartite Committee Report will be a part of clause 4.5 and, therefore, a part of the Settlement of 1983. Since the Settlement is binding on the parties and since no demand contrary to the Settlement can be made, the demand for enhancement of the rate of DA for points 200 to 492 cannot be entertained because it is contrary to the Settlement.

THE ARGUMENT OF DUALITY OF RATES

Shri Kulkarni argues that there cannot be a duality of rates, namely the rate of Rs. 1.30 per point from points 200 to 492 and the rate of Rs. 1.65 from points 492 onwards. But this argument is not based on facts. The duality has already become conclusive in regard to the rate of Rs. 1.30 being paid during the Settlement of 1979 on points between 200 and 492. If that is so, there is no a priori reason why the rate of the enhanced DA should not be paid beyond the point 492 only leaving the rate between the points 200 to 492 to be the same as was the rate in the 1979 settlement. Shri Kulkarni argued that the ONGC was bound to give a uniform rate and it is a misapplication of the DA policy or the DA scheme for the ONGC to make such differentiation between the rates for points 200 to 492 and points 492 onwards. This argument overlooks the reason for such differentiation. Shri Kulkarni has himself given importance to the history of the payment of DA by the ONGC to its workmen. The history will show that the grant of the DA was the subject-matter of negotiations and settlements arrived at between the parties during the period of the settlements for the points of the CPI on which points the rate is payable. A settlement is binding for its period. The next settlement is valid only for the next succeeding period of the settlement. Since a novation takes place, the previous settlement becomes unenforceable. The concept of novation is opposed to the concept of continuity. It is because continuity cannot be ensured when the dual rates come into existence. There is bound to be a difference between the rate agreed to in one settlement and the rate agreed to in another settlement. That difference is because the two agreements are separate from each other. The former agreement does not run into the later agreement. In view of this method of different settlement covering different periods of time and different points of CPI, it could not be ensured that all the points of the CPI would be covered by a uniform rate of DA. This is nobody's fault. It is inherent in the method by which different periods are governed by different settlements and each settlement has its own terms which may be different from the terms of the previous settlement.

THE DIFFICULTY OF RE-OPENING SETTLEMENT

Since each settlement is a novation making the previous settlement unenforceable, with each succeeding settlement the question of changing the terms of the previous settlement becomes difficult or rather impossible. At the time the reference to arbitration was made the settlement of 1983 was binding on the parties till 1987. The Tripartite Committee was considering the terms of a new settlement which will be operative from 1-4-1987. It has so happened that before the award is given on this reference the DA has been merged in the revised pay-scale and hence the DA is now payable only from points 608 of the CPI. This subsequent event may not be a part of the reference made to me but it does emphasise that the pattern by which the parties have agreed to the enhancement of the DA is a pattern of settlement. Each settlement takes the previous settlement as conclusive and not capable of being reopened. The Settlement of 1987 has also made the Settlement of 1983 conclusive and not liable to be reopened.

CONCLUSION

In the light of the consideration given above to the demand of the labour Unions I decide the specific points for arbitration as below.

POINT FOR ARBITRATION

Points	Award
(i) Whether the claim of the workmen arises and is maintainable ?	No
(ii) If so, to what extent and with effect from which date ?	Does not arise

My findings on the points referred to arbitration given above constitute the award in this case. It is thereby submitted to the Central Government, Ministry of Labour under S. 10-A(4) of the Industrial Disputes Act by me on this 28th day of August 1989.

JUSTICE V. S. DESHPANDE, Arbitrator
(Under S. 10A of the Industrial Disputes Act, 1947)

[No. L-30013/1/89-IR (Misc)]

का.मा. 2429—शोधोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार यू.पी. स्टेट मीमेंट कार्पोरेशन लि., आला सीमेंट फैब्रिटी के प्रबन्धन से सम्बद्ध नियोजकों और उसके कर्मकारों के बीच, अनुबंध में निश्चित शोधोगिक विवाद में केंद्रीय सरकार शोधोगिक प्रधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-9-89 को प्राप्त हुआ था :

S.O. 2429.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of U.P. State Cement Corporation Ltd., Dalla Cement Factory and their workmen, which was received by the Central Government on 1-9-1989

ANNEXURE

BEFORE SHRI ARIJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 184 of 1987

In the matter of dispute between

The Secretary Bhartiya Udyog Cement Mazdoor Sangh
Dalla Mirzapur.

AND

The General Manager U.P. State Cement Corporation
Ltd. Unit Dalla Cement Factory Dalla Mirzapur.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-29012/5/86-D.II (B), dated 6-12-87, has referred to following dispute for adjudication to this Tribunal :

Whether the action of the management of U.P. State Cement Corporation Ltd., in not granting the benefit of Time Keeper to Shri Vijai Shanker Singh and reverting him back as casual labour w.e.f. 15-2-86 is legal and justified ? If not to what relief the workman concerned is entitled to ?

2. The industrial dispute on behalf of Shri Vijai Shanker Singh, workman has been raised by Secretary, Bhartiya Cement Mazdoor Sangh, Dalla, Mirzapur (hereinafter referred to as Sangh for the sake of brevity).

3. The case of the Union is that the workman joined the U.P. State Cement Corporation Limited Dalla Mirzapur (hereinafter referred to as Corporation for the sake of convenience) in March, 1973, as a casual muster roll labour. The management issued an order posting him as a Time Keeper w.e.f. 2-11-80. As a Time Keeper his duties were to maintain attendance register and leave register, to make postings in the leave register and overtime, to prepare overtime and man days statements and statements regarding attendance leave, night allowance etc., of supervisors and overtime arrears in the prescribed forms. The workman was assured by the management that he would be soon made permanent Time Keeper and would be given salary and other perks attached to the post of Time Keeper. These assurances, despite workman's representations, were not honoured by the management. Rather the management made Shri Ashraf Ram and Shri Dalwanger Yadav who were junior to him as permanent clerks.

Therefore, he through the Union of which he was a member raised the industrial dispute before ALC(C) Allahabad on 16-12-85. On receipt of notice from the office of ALC(C), Allahabad, by way of victimization management removed him from the post of Time Keeper and reverted him to his original post of Casual Labour w.e.f. 15-2-86. Not only that the management even stopped providing him work for the whole of the month. Since the management have no certified standing orders, the management are bound by the Model Standing Orders according to which after 2 months from the date of working, the workman became permanent Time Keeper. The management was guilty of unfair labour practice by denying to the workman the salary and other perks attached to the post of Time Keeper. The Union has, therefore, prayed that the order reverting the workman to the original post of Casual Labour w.e.f. 15-2-86 from the post of Time Keeper be declared as illegal and void. The Union has, further prayed that the workman be declared permanent Time Keeper entitled to the pay scale and other perks w.e.f. 2-11-80.

4. The case is contested by the management. The management have raised the preliminary point that in respect of the Corporation, the Appropriate Government is the State Government, and not the Central Government u/s 2(s)(ii) I.D. Act, and as such reference made by the Central Government is without jurisdiction and bad in law. After raising the aforesaid preliminary point the management plead that casual labours are registered and kept in pool by the management and they are provided after the work whenever needed. Besides the management also kept Muster Roll Employees on daily basis. These two categories of workers, whenever clear vacancies arise, they are observed work in the ratio of 70 : 30. The management maintains seniority list of casual labours and such casual labour cannot claim work as of right like other permanent and regular employees nor can they claim promotion/absorption except on the basis of strict seniority.

5. The management further plead that prior to 4-3-86 New Crushing Plant of Dalla Cement Factory was working in 3 shifts and as such the time office in New Crushing Plant was also required function in each of these shifts. S/Shri Gupteshwar Rai, Sachhidha Prasad, Ram Astey and Bhaggu Lal had worked as Time Keepers in the Time Office of the New Crushing Plant w.e.f. 5-1-82, 10-5-83, 11-5-83 and 30-5-83 respectively prior to 4-3-86. From 4-3-86, the New Crushing Plant worked only into two shift. The result was that persons posted in Time Office became surplus. So far the workman is concerned he was never directed or asked to perform the job of Time Keeper in the New Crushing Plant by any Competent Authority. Any order by any authority Competent directing him to perform the job Time Keeper in the Time Office of New Crushing Plant would be invalid. Even according to the seniority list, he was not the senior most. Even assuming that he was directed or allowed to perform the job of Time Keeper as he cannot claim any lien on the post of Time Keeper as a matter of rights. Such a workman could be sent back to his original post of casual labour in time. Until the workman becomes a regular employee as per policy of the management, he cannot have any claim for promotion or absorption in clerical cadre. The alleged reversion w.e.f. 15-2-86, is misconceived. In fact there is no vacant post of Time Keeper with the management.

6. The management deny any violation of the provisions of Sec. 25-G I.D. Act. According to the management notices regarding recruitment of apprentice clerk by open selection were posted on the notice board of the office of the management and on the notice board of the Local Employment Exchange on 23-7-89 and 26-7-79 respectively and out of the willing candidates S/Shri Asharfi Ram and Dalsingar Yadav were recruited as Apprentice Clerks. Workman was not considered as he did not apply for the post of Apprentice Clerk. The reason in all probability seemed to be that stipend admissible to a Apprentice Clerk was only Rs. 130 per month while the workman was already earning Rs. 500 per month as casual labour. Shri Asharfi Ram was a Scheduled Caste Candidate and Shri Dalsingar Yadav was a Backward Class Candidate. Lastly, the management plead that the award of Arbitration Board for Cement Industry (II-Reference) provide that if a workman is called upon to act in a higher post he should be given difference between the minimum of his scale and the maximum of the higher grade in which he is called upon to act as Acting Allowance.

While in the case of daily rated workman such Acting Allowance will be payable even if he acts for one full day, in the case of monthly rated employees such allowance is payable only if he acts in the higher post for not less than 7 days in a month. Again according to the minutes of meeting held on 14-6-86 it has been decided that if a workman has been asked to act in a grade even higher than the next, in that case he will be entitled to difference of minimum of the grade in which he is presently working and the minimum of the next higher grade.

8. In its rejoinder, the union alleges that in respect of the Corporation, Central Government is the Appropriate Government under section 2(a)(ii) I.D. Act. The Union, also alleges that keeping of casual labour and muster roll employees on daily rated basis by the management amounts to unfair labour practice. The Union admits that prior to 4-3-86, the New Crushing Plant worked in 3 shifts and from 4-3-86, there have been two shifts. The strength in the Time Office of the New Crushing Plant in each shift consists of one time keeper and one attendant. However, in the general shift there are two time keepers. Thus in all there were 5 Time Keepers and 3 attendants in the Time Office of the New Crushing Plant. Lastly, it is alleged by the Union that in the written statement, the management have not clearly stated as to who are the competent authority for the posting of time keeper in the time office. Rest of the facts stated in the rejoinder are merely reiteration of the fact earlier stated by the Union in the claim statement.

9. In support of its case the Union has filed the affidavit of the workman and a number of documents. On the other hand, in support of their case, the management have filed the affidavit of Shri R. P. Singh, and some documents.

10. In para 2 of the claim statement, the Union has set up the case, that the workman was appointed as a casual/muster roll labour in March 1973. Although this fact has not been specifically admitted by the management in their written statement, but the management witness has admitted this fact in para 20 of his affidavit wherein he has stated that the workman was registered as casual/unskilled mazdoor in the factory on 1973.

11. The Union has filed with the affidavit of the workman copies of two documents marked annexures Ka and Kha to prove that the workman had been working as Time Keeper since 2-11-80. Annexure Ka is the copy of order dated 30-10-80 passed by the Chief Time Keeper (Excavation) posting the workman in the Time Office in the vacancy caused due to absence of Shri Karam Ullah Time Keeper. Under the said order the workman was to discharge the duties of Time Keeper till further orders. Annexure Kha is the copy of order dated 13-9-81 of Chief Time Keeper Excavation passed by him under the oral orders of incharge Chief Manager by means of this order the posting of the workman was made in the Time Office (Excavation) of the New Crusher Plant w.e.f. 14-9-81 as Time Keeper. These two documents have been referred to by the workman in para 3 and 4 of his affidavit. He has also deposed in his affidavit that he had worked as Time Keeper till 14-2-86 and that w.e.f. 15-2-86 he was removed from that post and reverted to the post of casual labour. The management witness in his affidavit has admitted that from 14-9-81 to 14-2-86, the workman remained posted in the Time Office of New Crushing Plant, but in the Capacity of unskilled casual labour. Although the management witness was not cross examined because of the fact that on the date fixed for cross examination none appeared from the side of the Union, the documents filed by the Union with the Affidavit of the workman go to prove that the workman had worked as Time Keeper right from 2-11-80 upto 14-2-86.

12. The Union has raised a number of issues challenging the action of the management and one such issue is that the management was guilty of violating the provisions of section 25-G. The case of the Union on this point is that Shri Asharfi Ram and Shri Dalsingar who were junior to the workman have been made permanent clerks. The workman has corroborated this fact by means of his affidavit.

13. However, in the above contention of the Union, I find absolutely no force. The management witness with his affidavit have filed photo copies of 2 notices one dated 23-7-79 and other dated 26-7-79. They are annexures 1 and 2 respectively of his affidavit. By means of these notices posts of Apprentice Clerks were advertised and it was stated that during the apprenticeship period, on selection, the selected candidates would get Rs. 130 per month. It is the specific case of the apprenticeship period, on selection, the selected candidates above named two persons, namely, Shri Asharfi Ram and Shri Dalsingar Yadav were recruited as Apprentice Clerks. It is further the specific case of the management that the workman did not apply for the post Apprentice Clerk. In the circumstances, even if it be assumed that these two persons were junior to the workman, the management cannot be held guilty of violating the provisions of section 25-G I.D. Act. There had been a direct recruitment of clerks for which Shri Asharfi Ram and Shri Dalsingar Yadav applied but the workman did not.

14. The other two points raised by Shri Bhupender Singh, authorised representative for the Union are that the management were guilty of unfair labour practice and that reversion of the workman from the post of Time Keeper to Casual Labour was illegal and it amounted to punishment.

15. In both the contention of Shri Bhupender Singh, I find no force. There is no dispute about the fact that the post of Time Keeper is a clerical post. This fact has even been admitted by the workman in his cross examination. The workman has further deposed in his cross examination that for the post of Time Keeper which is a clerical post there is held an examination. There is no evidence on record from the side of the Union to show that the workman had ever passed any such examination.

16. With the list of documents dated 19-3-88, the management have filed a few documents. Document No. 1 is the copy of Seniority list of casual labour in which the name of the workman appears at Serial No. 278. The workman has admitted this document in his cross examination. However, he also says that the seniority list does not mention the names of some of the persons who were junior to him and whose services have been regularised. There is no document/evidence on record to prove his contention. It is not the case of the Union that persons other than Shri Asharfi Ram and Shri Dalsingar Yadav were junior to him. The case of these two gentlemen has already been considered by me above. Therefore, there does not seem to be any substance in the statement made by the workman that in the seniority list the names of some persons junior to him do not appear. In para 15 of the written statement, the management have taken the stand that the workman was not the senior most in his original category of casual labour and as such he could not claim for being considered for his promotion on permanent and regular post of Time Keeper. In reply to the facts stated in the said para of the written statement all that has been alleged by the Union is that since in the category of casual labour no other casual labour possessed the educational qualification as are possessed by the workman no casual labour was ever appointed by time keeper in the time office. This also belies the above statement of the workman in his cross examination. Thus from the above facts it can be inferred that out of turn and without his services being regularised the workman was allowed to work as Time Keeper in the Time Office. The question is did it not amount to unfair labour practice. By accepting the post of Time Keeper and working as such for such a considerable time had he not deprived the person whose services have been regularised as a casual labour and who on account of departmental promotions if permissible under Rules, was entitled to the job of Time Keeper. It means that he had connived with the management. It could be that he might have made an oral request to the officials concerned that looking to his educational qualifications he should not be entrusted with the work involving physical labour. Being Intermediate, work of some clerical nature should be taken from him and that he would not claim wages for the clerical work taken from him. It could also be that on account of his being a relative of any official having a say in the management, he might have been able to secure an order in his favour for working as Time Keeper on the understanding that he would not claim the wages of the post

of Clerk. This could have happened even by bribing any such official. In these two kinds of situations it must have been understood that it would be difficult for the workman to compete with others who are more qualified in case a clerical post was advertised. From annexure 1 and 2 of the affidavit of management witness it appears that the minimum qualifications for the post of apprentice clerk was Intermediate. Therefore, for such posts even candidates with much more qualifications would have applied and in their presence the workman could not have any chance of success. I am further fortified in my view from the unrebutted evidence of the management that although recruited as casual labour in 1973, he did not apply for the post of apprentice clerk when such posts were advertised through notices dated 23-7-79 and 26-7-79. While accepting post of Time Keeper it might be in his mind that at some distant time he would raise an industrial dispute saying that the management was guilty of unfair labour practice and it could be that he might get a verdict in his favour from the Tribunal. The question is why did he keep mum that time when out of turn he was being offered the post of time keeper and why did he not say that since the management had a list of casual labour whose services had been regularised, in case departmental promotions were permissible, the seniormost amongst the eligible persons possessing the minimum educational qualifications should be given a chance. Should it not be said that he himself was a party to unfair labour practice. His conduct was most unfair. It was not open and above board. I fail to understand why on behalf of such a workman the Union has come forward to espouse his case. If the management was guilty of unfair labour practice, the workman too was a party to it. If the workman is granted relief as claimed by him, cannot those who are senior to him and who possess the minimum educational qualifications for the posts of clerks say that since the workman Shri Vijai Shanker Singh has been absorbed as clerk they should also be absorbed as such and given seniority over him. From where the management will create so many posts. This will certainly lead to absurd results. If w.e.f. 15-2-86 the workman has been relegated to his original position, how the action of the management in the circumstances can be said as illegal.

17. Hence, the action of the management in not granting the benefit of the post of Time Keeper to Shri Vijai Shanker Singh workman and reverting him back as casual labour w.e.f. 15-2-86 cannot be held as illegal and unjustified. Consequently, the workman is held entitled to no relief except the relief that for the period during which he had discharged the duties of Time Keeper he should be paid wages in terms of departmental rules/settlement/award and in the absence of anything on the point, he should be paid wages at the minimum of the scale of the Time Keeper as had been in force from time to time during the period during which he had worked as such.

18. The reference is answered accordingly.

Dated 31-7-89

ARJAN DEV Presiding Officer
[No. L-29012/5/86-D.III (B)]

मही दिल्ली, 7 सितम्बर, 1989

का.आ. 2430:—बौद्धिगिक विवाद अधिनियम, 1947 (1947 का 14) की पारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माइनिंग के जी. एफ. के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, घनुभैष में निश्चिप्त बौद्धिगिक विवाद में केन्द्रीय सरकार बौद्धिगिक अधिकारण, बातों को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-9-89 को प्राप्त हुआ था।

New Delhi, the 7th September, 1989

S.O. 2430.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Ltd., K.G.F. and their workmen, which was received by the Central Government on 6th September, 1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated, the 30th day of August, 1989

PRESENT :

Shri B. N. Lalge, B.A. (Hons.) LL.B., Presiding Officer.

Central Reference No. 64/88

I PARTY :

Shri Kannan, Machine Maistry,
C/o the President,
Bharat Gold Miner's Association,
No. 545, Near Oorgaum,
Punjabi Line,
Oorgaum K.G.F.-563120.

Vs.

II PARTY :

The Managing Director,
Bharat Gold Mines Ltd.,
"Suvarnabhavan",
Oorgaum,
Oorgaum, K.G.F.-563120.

APPEARANCES :

For the I Party—Shri V. Gopala Gowda, Advocate.

For the II Party—Shri K. J. Shetty, Advocate.

AWARD

By exercising its powers under section 10(1)(d) of the Industrial Disputes Act., the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-43012/16/88-D. III(B) dated 22nd November, 1988.

POINT OF REFERENCE

"Whether the action taken by the management of the Bharat Gold Mines Limited in dismissing Sri Kannan, Machine Maistry, Champion Reef Mine from service with effect from 13th October, 1982 is justified. If not, to what relief he is entitled?"

2. The first party workman has put forth the following contentions in his claim statement :

- (1) He joined BGML in 1951 as machine maistry-cum-blaster.
- (2) The management had issued a show cause notice dated 17th February, 1982 alleging that he had committed misconduct under standing order 15(b)(34) read with 15(a)(7). He submitted his explanation, but an enquiry was ordered against him. The enquiry was an empty formality.
- (3) The findings of the enquiry officer are perverse.
- (4) A second show cause notice was issued to him and he has submitted his explanation, but the management dismissed him by an order dated 18th October, 1982. The order is illegal.
- (5) The punishment is disproportionate to the alleged charge.
- (6) He has been victimised for trade union activities.
- (7) The order of dismissal may be set aside, and he may be reinstated with all consequential benefits.

3. The management has filed its counter statement and *inter alia* it has stated as follows :

- (1) He was served with a show cause notice, since he was found in possession of gold bearing quartz kept

hidden in a paper packet and tied between the rope and the tin of explosives.

- (2) An enquiry was ordered against him. The enquiry was held in accordance with the principles of natural justice.
- (3) After due enquiry, the enquiry officer gave his findings.
- (4) The findings are not perverse. They are based on the evidence on record.
- (5) The disciplinary authority then issued a second show cause notice.
- (6) He submitted his explanation, and on going through the explanation the disciplinary authority found that there were no extenuating or mitigation circumstances, and an order of dismissal was passed.
- (7) The punishment is in proportionate, with the gravity of the misconduct.
- (8) It is denied that he has been victimised.
- (9) The reference may be rejected.

4. Since the workman had challenged the validity of the domestic enquiry, a preliminary issue was raised as shown below :

Whether the second party proves that it has held the domestic enquiry in accordance with law ?

5. On recording evidence and hearing the parties a considered order dated 7th June, 1989 has been passed on the said issue and it has been held that the domestic enquiry is valid.

6. The parties were permitted to adduce further evidence on rest of the points and argue.

7. MW-1 the workman has again examined himself on 20th June, 1989.

8. The parties have been heard.

9. My finding on the point of reference is as follows :

The action of the management in dismissing Shri Kannan from service w.e.f. 18th October, 1982 is justified. He is not entitled to any relief.

REASONS

10. The first party workman has contended that the findings of the enquiry officer are perverse. It requires to be examined whether the findings of the enquiry officer are perverse.

11. Perversity has two tests. The first test is whether the finding is supported by legal evidence. The second test is whether any reasonable person could have arrived at the finding complained of, on the basis of the evidence placed before the enquiry officer.

12. The learned counsel for the first party contended that the original mahazar was not produced before the enquiry officer, and that the enquiry officer has wrongly admitted in evidence a typed copy of the mahazar and that the findings cannot be sustained. A mahazar means a memorandum of facts reduced into writing within a couple of minutes of the incident showing the facts found by the persons present at the spot, at a given point of time. It is not a substantive piece of evidence. Strict rules of evidence are not applicable to the proceedings before the enquiry officer. The said mahazar is enclosed with the report of theft, and both the documents have been marked by the enquiry officer. The said documents are now marked before this Tribunal as Ex. M-12. The names of the witnesses and the employees of the watch and ward as shown in the theft report are also to be found in the mahazar. The theft report which is called as the complaint and the mahazar bear the seal and signature of the security officer. The evidence of MW-1, the enquiry officer discloses that on Ex. M-5, the carbon copy of the mahazar, he has

given the marking as Ex. M-1. The said portion is now shown as Ex. M-5(a). Ex. W-1 is the copy of the judgement produced by the workman in CC. No. 1238/82 of the Court of JMFC, KGF. An inference arises from the said Ex. W-1, that the original mahazar had been produced before the criminal Court and it was marked as Ex. P-1. In the enquiry proceedings, the workman was represented by his assistant, an office bearer of the union. No objection has been raised at any point of time before the enquiry officer for marking the carbon copy of the original mahazar as Ex. M-1 (as marked by the enquiry officer). Having conceded for marking the carbon copy of the mahazar as Ex. M-1 before the enquiry officer it does not lie in the mouth of the workman now to contend that the enquiry officer has wrongly admitted the same in evidence.

13. The matter has been examined on the basis of the rest of the evidence even eschewing the mahazar as Ex. M-5.

14. The findings of the enquiry officer, therefore cannot be said to be perverse, for the reasons that he has taken on record in-admissible evidence.

15. Ex. M-1 is the charge sheet issued to the workman. The charge against him was as follows :

"It is reported that you have indulged in theft of employer's property at about 8.25 p.m. On 17th February, 1982 at No. 1 shaft searching yard, in which you have tied a paper packet containing visible GBQ pieces with a string along with the rope with an intention of stealing it and hidden in between the explosives tin and the hanging rope and the same was detected by the special duty watchman No. 456 Sarjit Singh at the time of search."

The above act on your part constitutes a serious misconduct under standing order No. 15(b)(34). Though the workman had been given 7 days time to submit his explanation, he had not submitted any explanation. The management had therefore issued the notice of enquiry as per Ex. M-2. There after the enquiry officer MW-1 has conducted the enquiry. Ex. M-3 is the proceedings of enquiry. After the workman pleaded not guilty, the management has examined PW-1 Sarjit Singh (To distinguish the witnesses examined by the management before the enquiry officer, they have been shown as PW-1, PW-2, etc., whereas the witness examined before this Tribunal are as shown as MW-1 etc.) The evidence of PW-1 Sarjit Singh shows that on 17th February, 1982 he was on duty at Shaft No. 1 from 6.00 p.m. to 2.00 a.m. and that about 8.25 p.m. four workers came up from the underground and that out of the four one was head master and he went to the private searching room and he was separately searched of Havildar Sadique. He further states that he searched two workmen and then he started searching the third workman, who had empty tins of explosives. He further states that one tin contained nuts and bolts and when he started searching the second tin, he found a paper packet tied to the hanging rope of the empty tin and kept hidden between the rope and the empty tin. He further states that he immediately called the Havildar and caught hold of the workman by one hand. He further states that the Havildar came to the spot, saw the packet and called the banksman, Marsilamani. His evidence further discloses that banksman then came to the spot and saw the paper packet and then all of them took the workman Kannan along with the tins to the cabin of the banksman. His evidence then proceeds that the banksman then informed the supervisor Hidayat Ali and the latter came there within 15 minutes. He then states that after some time duty agent R. K. Goyal also came to the spot and all of them went to the room of the duty agent. The evidence of PW-1 Sarjit Singh further shows that the banksman then searched the person of the supervisor Hidayat Ali and the latter then searched the person of the workman Kannan, but nothing was found on his person. It further appears in his evidence that the said supervisor took the paper packet from the rope of the tin opened it in the presence of all the persons that were present and it was found that there were six pieces of GBQ. His evidence then discloses that the property was kept in another paper by the duty agent, it was packed and then all of them went along with Kannan to the chemical laboratory and at that place the Assayor weighed the same and took some sample for analysis.

It also appears in his evidence that a mahazar was drawn up and that all of them have signed the same. As per his evidence thereafter the property and the workman were made over to the Oorgaum police. The PW-1 Sarjit Singh has been questioned about the distance between the point where he got down from the cage of the lift and the point where he had been searched. The witness states that the distance was 3 or 4 meters. The witness has been emphatic in stating that as soon as the first party workman came up to the surface, he had seen him and he had searched him. In the cross examination it has been tried to suggest that soon after the workman came to the surface, he had made over the tins to some body else. PW-1 Sarjit Singh has stated that none had received the tins from him, when he came to the surface. The said suggestion leads to an inference that the workman impliedly concedes that he had brought the two tins from underground. The witness, PW-1 has categorically stated that after the tins were taken to the assay office, they were handed over to the police. The cross-examination of PW-1 further shows that the banksman had not seen PW-1 searching the workman, nor any other workman. The witness has further clarified in his evidence that he found the property when he was searched on the first occasion itself. The workman had been searched on the second occasion in the room of the duty agent to find out whether there was anything on his person, whereas the first search was soon after he had embarked from the cage along with the tins. Thus there is nothing in-consistent between the examination-in-chief and cross-examination of PW-1.

16. The evidence of PW-2 Sadique is on the point that PW-1 Sarjit Singh had first searched two workers and then started searching Kannan, and that Kannan had brought two tins from the underground and one contained nuts and bolts, whereas the other was empty. He further states that PW-1 Sarjit Singh found that a paper packet was tied and kept hidden between the rope and the tin and he was immediately called and shown the same. He further states that having suspected that the packet must be containing something, he called the banksman Marsilamani and then Marsilamani also came and saw the packet. It further appears in his evidence that PW-1 Sarjit Singh had caught hold of the workman and all of them went to the room of the banksman. He has then stated that the banksman then rang up to Hidayat Ali and duty officer Goyal and that then all of them went to the room of the duty officer along with the workman and the tins. He corroborates the evidence of PW-1 that in the room of the duty officer the person of the workman was searched, but nothing was found with him and that thereafter the supervisor reduced the facts into a mahazar, and that the workman and the properties were taken to the Assay office where at the property was weighed and sample was taken and then the same was made over to the police.

17. Then there is the evidence of PW-6 Masila Mani. He states that at about 8.15 p.m. some workers came up from the underground and after some time, the Havildar called him and then he went there and found that there was a bundle in between the rope and the tin, and that the watchman and the Havildar were searching the workman Kannan. The witness further states that the Punjabi watchman (namely PW-1) asked Kannan to accompany him, but he refused and then PW-6 Masilamani advised him that since he had brought the tins, he should accompany them. His evidence further discloses that thereafter he rang up supervisor Hidayat Ali and duty agent Goyal etc. and when they came, they all went to the room of the duty agent and at that place the packet was opened by the persons of the watch and ward, and 5 or 6 pieces of GBQ were found in the same.

18. The first witness who had seen the workman Kannan with the paper packet kept hidden between the rope and the tin was PW-1 Sarjit Singh. His evidence has been satisfactorily corroborated, by other two eye witnesses PW-2 Havildar Sadique and PW-6 Masila Mani. The cross-examination of PW-2 Sadique shows that he was not at the spot, when PW-1 Sarjit Singh searched Kannan soon after he came to the surface and alighted from the cage. There is nothing in the cross-examination of PW-2 Sadique, to discredit him. PW-6 Masila Mani has been cross-examined on the point whether he had been called to the searching yard. The witness has affirmed that he had been called there and he did not know the reason as to why he had been called there. In the

cross-examination, PW-6 has again affirmed that he had seen the bundle tied to the rope of the tin. The witness has denied the suggestion that he had not gone to the searching yard at all and that Punjabi watchman had himself taken the property to his cabin.

19. It is of great significance to note that no motive has been suggested to any one of PW-1 Sarjit Singh, PW-2 Sadique Havildar or PW-6 Masila mani, banksman.

20. The evidence of PW-3, Hidayat Ali, Supervisor PW-4 Govinda Rao, Supervisor, PW-5 Venkataramanappa, foreman and PW-7 duty agent R. K. Goyal is on the point that after receiving information they had gone to the spot and found that the workman Kannan had been apprehended along with the property.

21. PW-3 Hidayat Ali has substantiated the evidence of PW-1, PW-2 and PW-6, in as much as he has stated that when he went to the cabin of the Masila mani, he found the tin along with the rope and the packet, and that the personnel of the watch and ward had detained Kannan. The cross-examination of PW-3 Hidayat Ali is on the point whether the mahazar was prepared in his presence. The witness has reiterated and it was prepared in his presence. The witness has further supported the case of the management that the mahazar was written by supervisor PW-4 Govind Rao. The evidence of PW-3 Hidayat Ali corroborates the evidence of PW-1, PW-2 and PW-6 on all the material points.

22. PW-4 Supervisor Govind Rao had gone there on receiving a telephone call and he found on the table of the duty agent the packet. It further appears in his evidence that the packet was sealed in his presence and all of them took it and the workman to the assay office, and at that place the property was weighed by the assayer and some sample was taken and then he wrote the mahazar. PW-4 Govind Rao, has been questioned as follows :

Question : Can you tell me how I am involved in this case ? The witness has answered as follows :

Ans. : I was explained by Hidayat Ali that you brought something (packet) along with explosive tin and the same was found to contain six pieces of yellow metal by Sarjit Singh and therefore you are involved in the case. The said part of the evidence, again substantiates the evidence of PW-1, PW-2 and PW-6. Even if it is supposed that the mahazar Ex. M-5 is inadmissible in evidence, there is the specific evidence of PW-4 Govind Rao on the fact that six pieces of GBQ were found along with the workman Kannan and that the said fact was put into writing immediately after the search.

23. The evidence of PW-5 foreman Venkataramanappa is on the point that when he came to the surface on that night at about 8.45 p.m. he found that Masila Mani and watch and ward personnel were informing the officers that the workman Kannan was found carrying GBQ pieces, tied to the tin of explosives and that he had been caught by the Punjabi watchman. His evidence then discloses that after sometime duty agent and others arrived there and all of them took the workman Kannan and the tin etc. to the room of the duty agent and in the presence of all of them, Hidayat Ali opened the packet and kept it on the table of the duty agent and then they found the GBO pieces and then all of them took the property and the workman to the assay office, where the property was weighed and sample was taken for analysis. The evidence of PW-7 duty agent Goyal is also on the same lines.

24. PW-5 Venkataramanappa has been cross-examined on the point whether he knows the name of the watchman who had caught the workman. The witness has stated that he does not know but his name has been shown in the report. He has been asked whether he had counted the bolts and the nuts. He states that he did not count them. There are the following questions and answers in his evidence.

Question : Did you ask me about the cases ?

Ans. : Yes.

Question : What did I tell you ?

Ans. : You said that you did not know as to who had kept the bundle in the tin.

25. It is not the case of the workman suggested to any witness and especially to eye witnesses such as PW-1, PW-2 and PW-6 that he did not know whether there was any packet kept hidden between the tin and the rope of the tin, and that he had innocently brought it as an empty tin. It is obvious from the aforesaid question that foisting of a false case is a development in the defence put forth by the workman, subsequently. It is pertinent to note that no where the first party workman has propounded the said case, and especially in his letters such as Exs. M-8, M-9 and M-10. The evidence of PW-5 Venkataramanappa lends further support to the evidence of the aforesaid other witnesses.

26. The evidence of PW-7 R. K. Goyal, the duty agent shows that after all the persons had come to his room along with Kannan and the property, the packet was opened and it contained GBQ pieces, that it was again packed and the workman and the property were taken to the assay office and it was weighed by the assay officer Shri Dwarakanath and some sample was taken by him. The cross-examination of PW-7 Goyal discloses that he was told about the facts by the watchman himself. The evidence of PW-7 Goyal adds further strength to the evidence of the said other witnesses. The fact that PW-8 Dwarakanath had weighed GBQ pieces and had taken the sample has been brought out in the evidence of PW-7 Goyal, also.

27. The evidence of PW-8 Dwarakanath indicates that on that night at about 9.30 p.m. the workman and the property had been taken to him, he weighed the property and found that it was 36.2 grams and that he had taken some sample and valued the property as of Rs. 217.32 paise. The evidence of PW-8 Dwarakanath has been assailed on the point that the property had not been produced before the enquiry officer and that the management cannot rely upon the said evidence. All the witnesses from PW-1 to PW-7 have stated that the property and the workman Kannan had been immediately taken to PW-8 Dwarakanath and that he weighed it and had taken some sample for analysis. His evidence cannot be doubted. The contention that the property was not produced before the enquiry officer is of no avail in the face of the evidence as analysed above. The property had been handed over to the police, as per the evidence of PW-1 to PW-7. Ex. W-1 shows that the property had been produced before the criminal Court and after the trial was over it had been returned to the management. The evidence of PW-8 thus shows that the management had established before the enquiry officer that the property seized was GBQ pieces.

28. In his evidence before the enquiry officer the workman has stated that when he had come to 300 level he searched his tins and took some bolts and nuts, and had brought the same to the surface. He further states that as soon as he reached the searching yard, he handed over the tins to the Punjabi watchman, that the watchman searched the tins and nothing was found except the bolts and nuts and that he was allowed to go. He further states that 15 minutes after the search, the Punjabi took some tins to the banksman's cabin and after 5 minutes the banksman called him and that he told him that there was a bundle in the tin and he denied the same. Thus, it is not the case of the workman Kannan that he had no tins at all but it is his case that he had not examined the tins before he came to the surface with the tins.

29. The learned counsel for the first party strongly contended that as per the mines regulations every such tin shall have to be numbered and since the management did not prove that a specific tin was having a specific number and that they had been entrusted to the workman, it may be held that it has not proved that the first party had brought any tin tied with a packet of GBQ pieces. There is no dispute on the point that the workman had brought two tins to the surface. As per his own evidence the case of the workman is that soon after he came to the surface, the Punjabi watchman, namely PW-1 searched him and he had handed over the said tin to the said watchman, and that after several minutes the Punjabi watchman had manipulated or foisted a case against him. The management had therefore no burden to establish about numbering of the tins and whether specific tins of specific numbers had been entrusted to him. In the cross-examination the workman states that he does not know the

name of the Punjabi watchman to whom he had given the tins of explosives. He further concedes that there is no practice of giving numbers to the tins of the explosives. There is a clear admission by him that there was no enmity between himself and PW-1 Sarjit Singh. In the face of all these admissions, the contentions raised by the learned counsel for the first party do not hold any water.

30. On his part, the first party workman has examined two witnesses.

31. The first witness Lakshmanan has stated that on that night at about 8.30 p.m. he along with another workman and Kannan came to the surface by the cage, he gave search to one Punjabi and Kannan was searched by another Punjabi. He further states that after giving search all of them went to a distance of 5 or 6 feet and were sitting there on changing their clothes. He then states that only then banksman Masilamani called Kannan to his cabin and the latter went there. In the cross-examination defence witness Lakshmanan concedes that the workman had brought the explosive tins with him. He further admits that the Punjabi who searched Kannan also searched the explosive tins. He states that he does not know as to why Kannan had been called again.

32. The evidence of second defence witness Arokinathan is also on the point that himself Lakshmanan and Kannan had gone to the surface and the Punjabi Watchman searched them, that they went away and subsequently the banksman called Kannan to his room. In the cross-examination the witness states that he does not know as to what happened thereafter. He admits that Kannan had brought to the surface two tins with him. He concedes that he does not know whether the tins were kept in the searching yard or whether they took the same to the room where they are to be kept.

33. No case has been suggested to any of the management witnesses that after the workman Kannan was searched, the other two workmen Lakshmanan and Arokinathan had been searched and let off, but PW-6 banksman Masilamani called back Kannan and then a false case was foisted against him. When it is an admitted fact that PW-1 Sarjit Singh did not have any ill-will against the workman, it escapes one's imagination as to why PW-1 Sarjit Singh and PW-6 Masilamani joined hands and involved the workman in a false case. There is nothing to suggest as to why the workman did not protest about it to the other witnesses, who arrived there and who are admittedly higher officers, and stated that PW-1 Sarjit Singh and PW-6 Masilamani had planted the packet. It is thus obvious that the evidence of Lakshmanan and Arokinathan was not preferable to that of PW-1 to PW-7.

34. In his report, the enquiry officer has discussed about the evidence placed on record and has arrived at a finding that the management has established the case.

35. The learned counsel for the first party contended that the charge sheet Ex. M-1 does not show that the workman had committed any offence or any theft and thus there was no charge as could be made out from clause 34. Clause 15(b)(34) of standing order states that theft or abetment of theft or fraud or dishonesty in connection with the employer's property, including mining material as defined in the Karnataka Mines Act, is a misconduct. Ex. M-1 states that he had kept that packet tied to the rope of the tin with an intention of stealing the same. The charge thus indicates that he had committed an act of misconduct as defined in clause (34).

36. The evidence of PW-8 Dwarakanath along with the evidence of PW-1 to PW-7 has established the fact that the property brought by the workman from the underground, was GBQ pieces and that it was a kind of material as defined in section 6 of Karnataka Mines Act.

37. The learned counsel for the first party contended that it was not possible to keep the packet hidden between the tin and the rope and therefore the management has not proved the misconduct. The witnesses such as PW-1, PW-2 and PW-6 have been categorical in their statements that the packet was kept in between the tin and the rope. I do not find any force in the said contention.

38. The learned counsel for the first party argued that the workman had handed over the tins to the Punjabi watchman

and there was nothing with him. There is not even a suggestion to PW-1 Sarjit Singh to that effect. The submission is of no avail.

39. The learned counsel for the first party argued that the recovery of the property has not been proved, and there is no corroboration to the evidence of PW-1. On analysis of the evidence of PW-1, PW-2 and PW-6, it is manifest that the two tins were with the first party and one of the tins had the paper packet tied to its rope. The said contention does not find support from anything on record.

40. The learned counsel for the first party contended that the evidence of the management witnesses is not consistent and that the charge has not been proved. On careful examination of the evidence on record it is to be found that the witnesses have corroborated the evidence of each other on all the material points and that there is no force in the said submission.

41. The learned counsel for the first party has cited the case of Anilkumar Vs. Presiding Officer (1986 I LLJ page 101). The authority is on the point that it is the duty of the enquiry officer to apply his mind to the evidence and give reasons to his conclusions. On pages 3 and 4 of his report Ex. M-6, the enquiry officer has assigned reasons for his findings. It is not a case where the enquiry officer has not applied his mind at all.

42. The management had issued a second show cause notice as per Ex. M-7 and Exs. M-8 and M-9 and the letters sent by the workman in that connection. All the points raised in Ex. M-9 have been examined, while discussing the evidence and it cannot be said that the management has blindly accepted the report of the enquiry officer. The order of dismissal as per Ex. M-13 cannot therefore be said to be illegal.

43. It is an admitted fact that the workman had filed an appeal. The appellate authority has discussed the points raised by him and has given considered findings as per Ex. M-12. I am of the view that Ex. M-12 is a considered order passed on merits.

44. The learned counsel for the first party referred to the case of Scooter India Limited Vs. Labour Court (1989 AIR S.C. page 149). The authority has been cited to show that it is a fit case to invoke the provisions of section 11A of the I.D. Act.

45. Though it has been alleged that the workman has been victimised there is not a shred of evidence on that point.

46. The judgement at Ex. W-1 stands entirely on a different footing, since in a criminal trial the nature of proof required would be entirely different. Secondly, the management is not the prosecuting agency. The management cannot be blamed if the said machinery has not succeeded in establishing the charges framed by the criminal court. I am of the view that Ex. W-1 cannot be pressed into service to show that he is innocent.

47. In the authority of Scooter India Limited the misconduct was of distribution of pamphlets whereas the misconduct established against the workman is of theft, or abatement of theft, fraud, or dishonesty in connection with the employer's property. It cannot be forgotten that the workman was within the premises of mines and soon after he had come to the surface from the underground gold mine, he has been caught. In my view there is absolutely no extenuating or mitigating circumstance. The punishment is quite reasonable.

48. In the result, an award is passed to the effect that the management of Bharat Gold Mines Limited was justified in dismissing Shri Kannan, the I party workman from their service and that he is not entitled to any relief.

B. N. LALGI, Presiding Officer

[No. L-43012/16/88-D.III(B)]

का. प्रा. 2431—ओडिगिक विवाद अधिनियम, 1947(1947 का 14) की धारा 17 के अनुसार मे, फ्लॉट सरकार, इंडियन एयरलाइंस बंगलोर के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओडिगिक विवाद में फ्लॉट सरकार ओडिगिक अधिकरण बंगलोर के प्रबंध का प्रतिवेदन करता है, जो फ्लॉट सरकार का 6-9-89 का प्राप्त हुआ था।

S.O. 2431.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Airlines, Bangalore and their workmen, which was received by the Central Government on 6-9-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT BANGALORE

Dated 30th Day of August, 1989

PRESENT :

Shri B. N. Lalge, B.A. (Hons) LL.B. Presiding Officer.

Central Reference No. 8/89

I Party

Shri D. Selvaraj
No. 138, H Block,

II PARTY

The Commercial Manager

Vs.

Champion Reefs Post,
K.G.F. 563 122.
Indian Airlines,
Southern Region,
Madras-600027.

APPEARANCES :

For the I party Shri N. G. Phadke Advocate.

For the II party Shri N. G. R. Prasad Advocate.

AWARD

By exercising its powers under section 10(1) (d) of the Industrial Disputes Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its Order No. L-11012/14/88-D.III(B) dated 5-1-1989.

POINT OF REFERENCE

"Is the management of Indian Airlines, Bangalore, justified in dismissing Shri D. Selvaraj, loader, from service with effect from 15-5-1987. If not, to what relief is the workman entitled?"

2. The first party workman has filed his claim statement and he has stated as follows :

He was appointed as a loader in the second party, Indian Airlines. An enquiry was held against him and on the basis of the enquiry report he has been dismissed w.e.f. 15-5-87. It was alleged that he had committed theft of property on 16-6-84. He has filed an appeal. It was dismissed by an order dated 29-1-88. The order of dismissal is illegal. It has been passed in colourable exercise of its powers. It amounts to unfair labour practice and victimisation. The action is malafide. The domestic enquiry is vitiated on several grounds. The findings of the enquiry officer are perverse. Hence it is prayed that he may be reinstated with all the consequential benefits.

3. The second party management has filed its counter statement and inter alia it is contended as follows :

He was appointed as a loader on 18-10-79. On 16-6-84 he was not on duty, but however, he was seen in the Cargo rest room at 7.00 p.m. along with M. Kandeepan, trainee assistant. He was found there by Charles, head security guard and by S. S. Menon, duty officer. At 8.30 p.m. K. J. Johnson another loader came in a taxi car to the catering hanger and along with the first party Selvaraj and also others such as John M. Kandeepan, Anandakumar etc., committed theft of one parcel from the containers, kept near catering hanger. They put the parcel in the dicky of the car and all of them sped away in the car. G. Subramaniam Security Guard raised an alarm. Charles and Subramaniam reported the matter to the duty officer Menon. The latter came to the spot and got to the container examined by Shailendra Kumar and it was found that out of two parcels of watches booked by HMT Bangalore to their Bhopal Office, one was missing. The duty officer lodged a complaint with the HAL, Airport police. On due investigation the police intimated on 20-6-84, that H. J. Johnson, D. John, M. Kandeepan Anandakumar and the first party workman Selvaraj were responsible for the offence. It was further revealed that the first party workman and the said others had been arrested and through them the property had been recovered intact. The property had been sold to one Ahmed Khan, and he admitted about the transaction. A charge sheet was issued to the first party workman under clause 1 & 16(4) of the standing orders. He gave his reply letter dated 26-9-84. The Enquiry Officer conducted a joint enquiry against all of them. On completion of enquiry he found the first party and four others guilty. A second show cause notice was issued to him, proposing the punishment of dismissal. On considering his reply, he has been dismissed from service. He had filed an appeal. It was considered on merits and rejected. The allegations made in paras 3 and 4 of the claim statement are denied. The second party can ill afford to have in its employment a person who has been found guilty of the charge of theft of a parcel of its customer. It has lost confidence in him. The past record of the workman was considered, but having regard to the gravity of the misconduct, it was found that dismissal is the proper punishment. As a loader the first party workman has to frequently handle the baggages and cargo belonging to the passengers and other clientele. The domestic enquiry has been conducted against him in accordance with the principles of natural justice. It is denied that the order is passed in colourable exercise of powers. The allegation that the second party has conducted unfair labour practice or victimised him is without any substance. The domestic enquiry is conducted for 14 months. Some of the workmen threatened some witnesses and therefore one witness did not appear for cross-examination. They put hurdles in the domestic enquiry. The enquiry officer has taken on record only admissible evidence. The plea put forth by the workman through his witness Anthony was that he was never available at the Airport on that day. Many discrepancies have been found in the evidence of Anthony and his evidence has not been accepted by the enquiry officer, for valid reasons. It is not fit case to invoke the provisions of section 11A of the I.D. Act. Some of the delinquent employees have filed writ petitions and they are pending before the Hon'ble High Court of Karnataka. The reference may be rejected.

4. A preliminary issue had been raised as shown below.

Whether the second party proves that it has held the domestic enquiry in accordance with law?

5. Both the parties adduced oral and documentary evidence and they were heard on the same.

6. By a considered order dated 26-6-89, the domestic enquiry has been held to be in accordance with law.

7. Parties were given opportunity to adduce evidence on rest of the points.

8. WW-1 the workman was recalled and examined further.

9. The parties were heard on the merits of the case.

10. My finding on the aforesaid point of reference is that the management of Indian Airlines, Bangalore was justified in dismissing Shri D. Selvaraj, Loader from service w.e.f. 15-5-87 and that he is not entitled to any relief.

REASONS

11. The management has examined before, the Enquiry Officer in all nine witnesses. The I party workman has examined one Anthony and the other delinquent employees in the joint enquiry have examined four witnesses.

12. The learned counsel for the I party did not point out to any witness, contending that his evidence was wrongly admitted on record. On page 69 of his report, the Enquiry Officer has stated that he does not give any credence to the evidence of MW-6 G. Subramanian. It is thus obvious from the report that since it was not possible for the management to tender MW-6 G. Subramanian for the cross-examination, the Enquiry Officer has rightly not accepted his evidence. If the evidence of MW-6 is eschewed from record, it is evident that the evidence of other witnesses examined before the Enquiry Officer has been properly admitted in evidence.

12. The Enquiry Officer has admitted in all nineteen documents, marked by him as Ex. M-1 to M-19. It was not pointed out for the I party as to which of the nineteen documents was inadmissible in evidence. Thus, it is not a case where the findings of the Enquiry Officer can be called as perverse for admitting on record inadmissible evidence.

13. The next question that requires to be examined is whether any reasonable person would have arrived at the findings complained of, on the basis of the material placed on record.

14. The chargesheet issued to I party D. Selvaraj, Loader is on page 2 of the enquiry file Ex. M-2. Briefly stated, it reads as follows.

That on 16-6-1984 at about 7 p.m., the I party Selvaraj, though not on duty was found in the cargo section of the Airport, in the loader's rest room and at about 8.50 p.m. he was seen joining others such as K. J. Johnson, Loader, D. Anandakumar, Catering Helper, Kandeepan, Traffic Assistant near the catering Hanger. It is further alleged that along with the said persons, he had lifted one parcel, from a container, kept near the Catering Hanger and that it was kept in a dickey of a flat car, parked between the cargo and Catering Hangers and after closing the dickey, all of them left in the said car. Thus, it is stated that on due verification by Sailendrakumar, Traffic Assistant, one of the two parcels booked under consignment Note No. 4069383 manifested for flight IC 108 of 16-6-1984, containing HMT wrist watches was found missing. It is further stated that the matter was reported to the Station House Officer of HAL police station who registered the case in crime No. 57 of 84 under Section 380 of IPC etc., and it was reported that after interrogation of the I party D. Selvaraj and others, the aforesaid parcel was recovered from an outside and thus the I party workman was guilty of misconduct under clause 1 and misconduct within the meaning of Clause 16(4) of the Standing Orders (Regulations) concerning Discipline and Appeals. Then Clause 1 and Clause 16(4) have been reproduced. They read as follows:

Clause-1—Every employee of the Corporation shall at all times maintain absolute integrity and devotion to duty and conduct himself in a manner conducive to the best interests, credit and prestige of the Corporation.

Clause-16(4)—Theft, fraud and dishonesty in connection with business or property of the Corporation.

15. The Enquiry Officer has set out the points that arose for his determination on page 49 of his report. They are as follows.—

1. Did HMT, Bangalore book a watch parcel to their Bhopal Office on 15-6-84, under Airway Bill No. 4069383 ?
2. Did I.A. take action to despatch the same to Bhopal, the destination ?
3. Did the parcel reach HMT, Bhopal, the destination or not. If not, what happened to the parcel. Was it recovered subsequently ?
4. Were the charge sheeted employees, S/Shri M. Kandeepan, K. J. Johnson, D. Selvaraj, D. John and D. Anandakumar, responsible for the theft of the watch parcel on 16-6-1984 in connivance with each other ?

16. The case of the workman D. Selvaraj before this Tribunal is that he was in the house of his friend M. Anthony on 16-6-84 and he does not know anything about the theft or the involvement of the said other employees and that he is innocent. Indeed, there is no cross-examination by him directed to any of the management witnesses as regards points Numbers 1, 2 and 3 set out by the Enquiry Officer for his determination, as shown above.

17. The learned counsel for the I party did not challenge, specifically that the points set out for determination by the Enquiry Officer did not arise or that they have been wrongly framed or that there is no evidence on the said points or that the findings recorded by him on them are erroneous. However, it would be appropriate, if the findings on the said three points are also examined independently and conclusions are arrived at whether they are sustainable.

18. On the first point, MW-4 Shri Kumar Karanth, Sales Officer of HMT, Bangalore has been examined and the consignment no's Ex. M-7 has been marked. The evidence of MW-4 Kumar Karanth and the consignment note Ex. M-7 satisfactorily establish that on 15-6-84 HMT, Bangalore booked two parcels to their Bhopal office under the consignment note marked as Ex. M-7. The Enquiry Officer has taken into account the said relevant material while recording his finding on Point No. 1. His finding on Point No. 1 is thus unassailable.

19. On point No. 2, the management examined MW-3 Shri M. Seshadri, the Traffic Asstt. of Indian Airlines, Bangalore. The evidence of MW-3 is at page 32. He has stated that on 16-6-84, he was in the general shift from 10 a.m. to 5.35 p.m. but however, he was asked to continue overtime from 5.35 p.m. to 9.45 pm. The evidence of MW-3 N. Seshadri and the cargo manifest Ex. M-5 show that the two boxes of watches under the consignment 4069383 had been manifested for IC 108 to Bombay. The two boxes were to be sent to Bhopal via Bombay. On the last page of the manifest, Ex. M-5 the second entry relates to the two boxes of watches of the HMT booked for Bhopal. The statement of Seshadri at Ex. M-8 dt. 17-6-84 indicates that he had taken the assistance of the other delinquent employee Johnson for loading container No. 0304 pertaining to IC 108. The statement Ex. M-8 further discloses that he had also taken the assistance of one Satyadevan a casual loader on duty. Ex. M-8 further shows that Johnson had placed all the parcels

in the container and had told him that all the parcels were loaded in the container and thereafter he had checked the same and found it to be correct. Neither the evidence of MW-3 nor his statement Ex. M-8 nor the correctness of the cargo manifest Ex. M-5 nor the consignment note, Ex. M-7 have been challenged by the workman Selvaraj or for that matter by anyone of the delinquent employees. The management has thus established before the Enquiry Officer by concrete evidence that the Indian Airlines had taken all the action to despatch the two boxes of HMT watches to Bhopal via Bombay by IC 108. The finding of the Enquiry Officer on point No. 2 is thus beyond reproach.

20. The evidence of MW-1 S. S. Menon, Traffic Officer and that of MW-5 P. Charles, Head Security Guard shows that sometime after about 9 p.m. on 16-6-84, Security Guard Subramanian reported the matter, as described in the chargesheet and MW-1 therefore found it necessary to verify the contents of container No. 0304 and for that purpose, he entrusted the matter to MW-2 Sailendrakumar. The evidence of MW-1 Menon, that of MW-2 Sailendrakumar discloses that the lower portion of the screen of the container No. 0304 was found open and on due verification by MW-2 Sailendrakumar, it was found that out of two parcels of HMT watches of consignment note No. 4069383, one was missing. The statement of Shilendra Ex. M-6 substantiates his evidence. The fact that one of the two parcels of HMT watches booked under consignment note Ex. M-7 was lost has been thus proved by the evidence of MW-1 Menon, MW-2 Sailendrakumar and the statement of the latter Ex. M-6.

21. In order to prove that there was theft of one parcel of watches evidence has been adduced. It has been endeavoured to be proved by the evidence of MW-1 Menon, MW-5 P. Charles, MW-7 M. Natraj, the Circle Inspector of Police and the documents such as Ex. M-3, statement of Menon dated 17-6-84, complaint given by Menon to the police, Ex. M-4, statement of Sailendrakumar dt. 16-6-84, Ex. M-6, the statement of P. Charles dated 17-6-84, Ex. M-9, letter dated 20-6-84 of the Circle Inspector of Police, M. Natraj, Ex. M-13 and a mahazai dated 19-6-84, Ex. M-16. The evidence of MW-7 Natraj, Circle Inspector of Police, his letter dated 20-6-84 to the Station Manager, Ex. M-13 and the mahazai dated 19-6-84, Ex. M-16 would disclose that the Sub-Inspector of Police Govindrao HAL Airport Police Station had registered the case in crime No. 57/84 under Section 380 IPC regarding the theft of a parcel containing 100 HMT watches under consignment Note No. 4069383 bound for despatch by flight IC 108 and had started investigation and from him MW-7 Natraj had taken over investigation. In the course of the investigation by MW-7 Natraj, four workmen viz., Johnson, John, Kandean and the I party Selvaraj have been arrested on 19-6-84 at about 8 p.m. and had made separate voluntary statements and on their information a box containing 100 HMT watches was recovered from one Ahmed Khan and was seized under a mahazai. The said evidence further discloses that the car in which the said parcel had been taken away, CAH 7663 had been also seized in the place of Ahmed Khan and that all the properties were subjected to property from and permission to retain them in the police custody had been obtained from the competent court.

22. In the case at hand, this Tribunal is not concerned about the contentions raised by the other delinquent employees. As regards the I party Selvaraj and so far as his defence is concerned, he has not challenged or disputed the fact that one parcel of HMT watches had been stolen away in the manner alleged.

23. The evidence of MW-4 Kumar Karanth shows that subsequently the HMT had obtained non-delivery certificate from the Indian Airlines at Bhopal regarding one parcel of HMT watches and that they had lodged a complaint with the Indian Airlines, Bangalore in that connection. His evidence further discloses that on 18-6-84, Sub-Inspector of Police Govindrao had called on them and had told them that a crime had been registered in connection with the loss of their parcel and thereafter the HMT had again written to the Indian Airlines about the parcel and they were told that the matter was under investigation. The evidence of MW-4

Kumar Karanth further discloses that the stolen parcel had been seized in act by the police, and an assurance was given that the parcel would be got released from the court and would be despatched to their Bhopal office. It is evident from his evidence that the stolen parcel had been secured and it was duly sent by a Bombay flight IC 108 on 5-7-84 and thus there was no more claim. MW-4 has given the detailed particulars of the various brands of watches and their value, which was the subject matter of the theft. The aforesaid evidence of MW-4 Kumar Karanth has gone unchallenged by the I party workman, Selvaraj. On point No. 3, the management has thus succeeded in proving that there was the theft of the said parcel, the Circle Inspector of Police MW-7 Natraj recovered the same on the information given by the I party workman and three other employees, as shown above. The parcel was recovered from one Ahmed Khan intact and it was duly sent to the HMT, Bhopal.

24. There is fool proof evidence on points 1 to 3 set out by the Enquiry Officer on page 49 of his report.

25. In relation to the fourth point taken up by the Enquiry Officer for his consideration, this Tribunal is called upon to examine only to the extent whether the I party workman D. Selvaraj is guilty of the misconduct of theft, etc., as shown in Clause 16(4) or that he failed to maintain absolute integrity and devotion to duty, as shown in Clause 1 of the Standing Orders.

26. As observed earlier, the Enquiry Officer has not accepted the evidence of MW-6 Subramanian. The Enquiry Officer has been justified in not accepting his evidence for the main reason that it was not possible for the management to tender him for cross-examination. The learned counsel for the I party contended that since the Enquiry Officer has sworn before this Tribunal that he was intending to find out the truth, it was necessary for him to have compelled the management to keep MW-6 present for cross-examination. The evidence of MW-9 G. Kotteeswara Rao, Security Asstt. on page 74 of Ex. M-2 discloses that in spite of the best efforts of the management, the management was not able to produce MW-6 G. Subramanian. His evidence further shows that being afraid of the other delinquent employees, MW-6 had sought for the enquiry to be held at Madras, and accordingly the venue of the enquiry had been changed to Madras on 22-6-85, but on that day also it was found that MW-6 G. Subramanian was not available. Ex. M-19 is a letter by Subramanian received by the Vigilance Officer on 19-6-1986. In the said letter MW-6 has stated that about 20 persons had visited his village and had threatened with dire consequences to his life. The letter of MW-6 Subramanian whereby he has sought for the change of venue is dated 6-6-1985. From the record, it is obvious that MW-6 Subramanian had sent a letter dated 26-3-86 to the Enquiry Officer and therein he had stated that he had given his statement on 17-6-84 being forced by M. Kantaraj, Administrative Officer, N. P. Raghavan, Vigilance Officer and he was afraid to state false hood. The learned counsel for the II party contended that all the other letters of MW-6 G. Subramanian are in Telugu, whereas the letter dt. 26-3-86 is in English and that MW-6 Subramanian had been forced by the delinquent employees to retract from his earlier statement. The proceedings of the Enquiry Officer dated 1-4-1986 on page 88 would disclose that the Enquiry Officer had asked the Presenting Officer to produce and make available MW-6 Subramanian for the clarification of his contradictory letters. The Presenting Officer had sought for one week's time and the Enquiry Officer had given one more chance to the Presenting Officer to keep him present on 18-4-86. The proceedings of 21-4-86 on page 100 of Ex. M-2 would disclose that the Presenting Officer had requested MW-6 Subramanian to appear and tender himself for cross-examination and that acknowledgement due had been received from Subramanian dt. 7-4-1986 but in spite of such letter, MW-6 Subramanian had not turned up. The Presenting Officer had sought for further time to produce MW-6 Subramanian. Since Subramanian did not turn up on that day, his evidence had been closed at that point itself. The record thus discloses that the management did not leave any stone unturned for keeping MW-6 present, so that the delinquent employees may cross-examine him. It suffices to observe that the Enquiry Officer has endeavoured to see that there has been a fair play and the

workmen have not been put to any disadvantage, but he ultimately found that the management was unable to tender MW-6 for cross-examination. There cannot but be a finding that the Enquiry Officer is justified in not accepting the evidence of MW-6 Subramaniam.

27. The learned counsel for the II party submitted that eschewing MW-6 Subramaniam, other material placed on record has established the guilt of the I party workman.

28. The management has placed reliance on the evidence of MW-5 Charles, Head Security Guard to a greater extent to show that the I party Selvaraj is very much responsible and that he acted in collusion with other delinquent employees in stealing the said parcel of watches. MW-5 P. Charles, has stated before the Enquiry Officer that on 16-6-84 around 7 p.m. when he was on patrol duty, he saw Mr. Kandeepan and the I party Selvaraj sitting in the rest room. There is no dispute on the point that by 16-6-1984, Kandeepan had been transferred to booking office and that 16-6-1984 being Saturday, it was an off-day for the I party Selvaraj. It is in that context MW-5 Charles has stated that because he had found Kandeepan and Selvaraj in the rest room, he had gone and reported about it to the Duty Officer, Menon. MW-1 Menon has stated before the Enquiry Officer that at about 7 p.m. MW-5 Charles had reported to him that I party Selvaraj and Kandeepan were sitting in the rest room and therefore, he had gone to the rest room and found that both of them were there. MW-1 Menon has specifically stated that Kandeepan had no concern about the cargo movement at the airport. The evidence of MW-1 Menon and MW-5 Charles has thus established the fact that Kandeepan and the I party Selvaraj were present in the rest room inside the airport at 7 p.m. on 16-6-84. It is not disputed that whether an employee of the Indian Airlines or not, a person is not permitted to be within the premises or in the rest room, if he is not on duty. It was argued for the I party that if the I party had been found in the rest room at 7 p.m. MW-5 Charles or MW-1 Menon should have immediately taken action against him and for not having done so, it may be held that their statements are not true. It cannot be forgotten that Kandeepan and the I party Selvaraj were then the employees of the Indian Airlines and it cannot be expected of the Duty Officer or the Head Security Guard to have taken exception for their mere presence in the rest room. The statement of Menon at Ex. M-3 dated 17-6-84 and that of Charles Ex. M-9 dt. 17-6-84 the complaint Ex. M-4, the consequent F.I.R. Ex. M-15, lend further support to the oral testimony of MW-1 Menon and MW-5 Charles.

29. As against the aforesaid evidence of MW-1 Menon and MW-5 Charles, the I party Selvaraj has examined his defence witness DW-2 M. Anthony. The evidence of DW-2 Anthony discloses that from 1 p.m. to 10 p.m., the I party Selvaraj was in his house. With reference to the cross-examination of DW-2 M. Anthony, the Enquiry Officer has found that he is not a trustworthy witness, and his evidence cannot be preferred to that of the management witnesses. The testimony of DW-2 Anthony is not cogent and consistent, for several reasons, besides the same being interested testimony, the discussion regarding which will follow subsequently. For the present, on going through the evidence of MW-1 Menon and MW-5 Charles and the aforesaid documents, I find that the said evidence is preferable to that of DW-2 Anthony on the point that at about 7 p.m. on 16-6-84, the I party Selvaraj was found in the company of Kandeepan and inside rest room within the airport premises.

30. This Tribunal, obviously cannot look into any other oral or documentary evidence which did not form the evidence before the Enquiry Officer. The learned counsel for the I party laid considerable force on the statement of various witnesses recorded in the course of the investigation by the police officers. The Inspecting Officers record the statement of the witnesses by virtue of Section 161 of the Cr. P. C. As is patent from Section 162 (1), no such statement can be used for any purpose except for the purpose shown in sub-section (2) of Section 162. In addition, to the said bar of Section 162 Cr. P. C. the statement of various witnesses recorded in the course of the investigation cannot be looked into by this Tribunal, since they do not

form part of the evidence before the Enquiry Officer, Perversity or otherwise of the findings can be examined only on the basis of the record that formed and figured as evidence before the Enquiry Officer.

31. On the point of actual commission of theft, there is no direct evidence, since the oral evidence of MW-6 Subramaniam has been excluded and not accepted.

32. The learned counsel for the II party strongly urged that the statement made by Subramaniam before MW-5 Charles soon after he had seen the culprits who had lifted the parcel of watches is also direct evidence, and that it is not hearsay evidence and that it is very much admissible. He further submitted that the statement made by MW-6 Subramaniam before MW-1 Menon and also the written statement given by MW-6 Subramaniam cannot be called as hearsay evidence.

33. The learned counsel for the II party placed reliance on the case of J. D. Jain Vs. The Management of State Bank of India and another (1982 I L.L.J. page 54). It has been observed in the authority that the word "hearsay" is used in various senses and that sometimes it means whatever a person declares on information given by some one else. The authority further states that in the departmental proceedings, guilt need not be established beyond reasonable doubt and that proof of misconduct may be sufficient and that strict rules of evidence are not applicable in domestic enquiries. The facts of the reported case would show that on 21-6-1971 one Kansal, a Savings Bank Account holder complained to the ledger keeper Wadhera that on 8-2-1971, he had withdrawn only Rs. 500, but there was a debit entry of Rs. 1,500 shown in his pass book and therefore Wadhera book Kansal to the supervisor, R. P. Gupta, before whom Kansal repeated his complaint. It was found that Kansal had given a letter of authority to the Appellant Jain, but he had authorised for the withdrawal of Rs. 500 only, whereas the letter showed that there was interpolation suggesting that Rs. 500 had been altered as Rs. 1,500. In the domestic enquiry Kansal was not examined. Witness numbers 1, 2, 4 and 5 had deposed before the Enquiry Officer that Kansal had made a verbal complaint in their presence to the effect that he had authorised withdrawal of Rs. 500. With reference to the case of Subramanyam Vs. Public Prosecutor 1956 (1) WLR 965, it has been quoted in the authority that evidence of a statement made to a witness may or may not be a hearsay. It is further observed that it is hearsay and in admissible when the object of the evidence is to establish the truth of what is contained in the statement and that it is not hearsay and it is admissible when it is proposed to establish by the evidence, not the truth of the statement but the fact that it was made. It has been further stated that the fact that it was made quite apart from its truth, is frequently relevant in considering the monetary state and conduct thereafter of the witness or some other persons in whose presence these statements are made.

34. In the light of the principles laid down in the aforesaid authorities, it is thus evident that the fact that MW-6 Subramaniam had made certain statements to MW-1 Menon and MW-5 Charles and MW-6 Subramaniam had further given some written statements to the management are relevant and admissible facts not on the point about the truthfulness of their contents but on the point the said statements were in fact made to the said witnesses or to the management.

35. The evidence of MW-5 Charles shows that at about 8.45 p.m. or 9 p.m. MW-6 Subramaniam shouted "Head Guard Sir, Head Guard Sir" and called him and immediately he rushed to him and that the latter reported to him that Mr. Johnson along with Kandeepan, Selvaraj, John and Anandakumar had lifted a parcel, loaded it in a car and sped away. The said report was made to MW-5 Charles at about 9 p.m. on 16-6-84. MW-5 Charles has given his statement in writing the very next date, 19-6-1984 as per Ex. M-9. In his statement, Ex. M-9 also, he has stated that around 2100 hours, Subramaniam, Senior Guard came running to him and told him that Johnson had come in a flat car and with the help of Kandeepan, John Selvaraj and

Anandakumar had removed a parcel from a container and placed the same in a dickey of the car and sped away. MW-6 Subramaniam had also given a statement to the management in that connection. It is at Ex. M-10. It is in Telugu. The management has filed a translation on the same. In the letter Ex. M-10 addressed to the Station Manager, MW-6 has stated that at about 8.50 p.m. he saw a fiat car coming inside the cargo section and proceeding towards the back side of the cargo hanger and that he saw the loader Johnson sitting in the car and therefore he kept a watch on the car. It is further stated in Ex. M-10 that the car proceeded and stopped between the cargo hanger and Catering Hangar and Johnson was joined by Selvaraj, John loaders, Anandakumar a catering helper and Kandeepan, a traffic assistant and that he further saw Johnson removing flap of the container kept near the catering section and with the help of the aforesaid persons took out the parcel from the container and kept it in the dickey of the car and all of them sped away in the car. He has then stated that he rushed to the head guard Charles and reported the matter to him. The evidence of MW-1 Menon on page 24 indicates that when he was in his room MW-5 Charles, the head guard and MW-6 Subramaniam, Asst. Guard came to him and reported to him about the matter. All the details shown by MW-6 Subramaniam in his written statement Ex. M-10 have been narrated by MW-1 Menon also. The evidence of MW-1 Menon shows that he immediately got the container verified through MW-2 Sailendrakumar and found that one parcel of HMT watches was missing and reported the matter to Mr. Kantharaj and on his advice gave a complaint to the HAL police. The evidence of Menon further discloses that after verification he could not trace the whereabouts of the said employees and they were not to be seen at the airport. The evidence of MW-1 Menon is specific on the point that as on 16-6-84 Kandeepan was attached to the cargo office whereas Selvaraj was on off-duty. The duty roster Ex. M-2 substantiates the evidence of MW-1 Menon on that point. MW-1 Menon had given his letter of report as per Ex. M-3 on 17-6-84. All these details have been described in Ex. M-3. The complaint given by MW-1 Menon to the HAL police is to be found at Ex. M-4. The learned counsel for the I party vehemently argued that in Ex. M-4 the name of Selvaraj is not to be found and thus there is no evidence to show that Selvaraj is concerned with the alleged offence. The complaint Ex. M-4 shows that Johnson had removed the parcel from the container along with his accomplices. The evidence of MW-7 Nataraj, Circle Inspector of Police, his letter dated 20-6-84 Ex. M-13 and the mahazar dt. 19-6-84 Ex. M-16 establish the fact that till 19-6-84 the police themselves did not know the names of other employees besides Johnson, who were involved in the theft. An inference thus arises that it would be too much to allege that MW-1 Menon or MW-5 Charles, out of their own imagination spelled out the names of Selvaraj and other employees as the accomplices of loader Johnson in lifting one parcel of watches. There is concrete evidence of MW-3 Seshadri and his report Ex. M-8 to show that Johnson, Loader was one of the persons who had filled up the container 0304 bound for IC 108 to Bombay. The fact that MW-7 Nataraj, Circle Inspector of Police had seized the fiat car also under the mahazar, Ex. M-16 and that the parcel of watches had been found intact along with the markings, leave nothing to doubt that theft of the said parcel had been committed from the container 0304. The I party workman Selvaraj has not shown any motive as to why MW-1 Menon MW-5 Charles have named him as one of the persons concerned in the case. Even otherwise, the omission to name the I party in the police complaint Ex. M-4 by MW-1 Menon can, by no stretch of imagination be a ground to reject the evidence of MW-5 Charles that on the same night of 16-6-84, he had learnt that the I party Selvaraj was one of the employees who had committed theft of one parcel of watches and had sped away in the car along with Johnson etc. In the cross-examination by the I party, MW-1 Menon has affirmed that he did find the I party workman in the rest room in the evening of 16-6-84 and that he had personally gone there. It is of considerable significance to note that there is not even a suggestion to MW-1 that MW-6 Subramaniam had not reported about the matter to him on the night of 16-6-84. In the cross-examination MW-5 Charles also has confirmed that on that evening, he did find Selvaraj in the rest room and had

reported about it to Menon. It has been suggested to MW-5 by the I party that there is a notice issued by the Assistant Commercial Manager Cargo that those who are on off or those who are not on duty should not enter the premises and therefore it has been suggested to him that Selvaraj was not there. MW-5 Charles has affirmed again that he had reported about his presence in the rest room to the Duty Officer, because he had seen him there. In the cross-examination, MW-5 has asserted that he had given the said statement. The written statement of Subramaniam, Ex. M-10 given to the management indicates that at the earliest point of time, the management had been informed about the theft of a parcel. There is no cross-examination by any of the delinquent employees to any of the management witnesses on the point of verification made by MW-2 Sailendrakumar and on the point that the management had learnt about the theft of the said parcel on the very night of 16th June, 1984. These letters in the form of reports given by MW-1 Menon at Ex. M-3, of MW-5 Charles at Ex. M-9, of MW-6 Subramaniam at Ex. M-10 establish the fact that it was found that the I party Selvaraj was one of the culprits responsible for the theft of the parcel. In my opinion, the complaint Ex. M-4 cannot outweigh the impact of the evidence of MW-1 Menon, MW-5 Charles and the documents at Exs. M-3, M-9 and M-10. The evidence on record thus indicates that it is not a case where the I party is named at an accused after the police seized the stolen property, but it is a case wherein the management had already identified the I party workman as one of the persons responsible for lifting away the parcel of HMT watches.

36. The learned counsel for the I party cited the case of Sawai Singh Vs. State of Rajasthan [1988(2) LLJ page 390] and contended that if a witness is not tendered for cross-examination, the consequent finding cannot be sustained. The authority has been quoted in view of the fact that MW-6 Subramaniam has not been tendered for cross-examination. It is reiterated that the Enquiry Officer has himself not taken into account the evidence of MW-6 Subramaniam and it is not a case where the findings of an Enquiry Officer cannot be sustained for the reasons that he has relied upon the evidence of the witness who has not been tendered for cross-examination.

37. The learned counsel for the I party cited the case of O. P. Gupta Vs. Union of India and others (1987) Supreme Court Cases (L&S) page 400 and contended that there is no presumption that the Government always acts in a manner which is just and fair. The Enquiry Officer has not proceeded on the footing that any presumption arises from the various acts of MW-1 Menon or MW-5 Charles or MW-7 Nataraj, Circle Inspector of Police. The evidence of each witness has been scrutinised by this Tribunal under no presumption that the witnesses have acted in a just and fair manner.

38. The learned counsel for the I party then referred to the case of P. B. Roche Vs. Union of India and others [1984 (2) SLR page 359]. The authority has laid down a principle that in departmental proceedings standard of proof varies according to the gravity of the charge and that although rules of evidence and procedure of Civil Court are not strictly applicable, cases involving serious charges require standard of fairness and reasonableness as adopted by civil courts.

39. On the other hand, the learned counsel for the II party cited the case of Union of India Vs. Sardar Babadur (1972 I LLJ page 1). It has been enunciated in the said authority that the standard of proof required in such cases is that of preponderance of probability and not proof beyond all reasonable doubt and that a disciplinary proceeding is not a criminal trial.

40. From the authorities cited for both the sides, it emerges that the preponderance of evidence in cases involving the charge of theft or dishonesty in relation to the employer's property require fairly higher degree of proof as insisted upon in a civil court to prove an issue.

41. Keeping in view the principles laid down in the aforesaid authorities, the evidence adduced by the management before the Enquiry Officer as against the I party Selvaraj requires to be scrutinised.

42. In the first instance, it is manifest from the evidence that the management had identified the I party workman as one of the persons involved in lifting the parcel of HMT watches on the very night of 16th June, 1984. In order to further substantiate their case, the management has relied upon the evidence of MW-7 M. Natraj, Circle Inspector of Police. After the Duty Officer, MW-1 Menon had filed the complaint, the management had pursued the matter to know about the developments in the investigation. MW-7 Natraj had responded and written a letter dated 20th June, 1984, as per Ex. M-13. Ex. M-13 dated 20th June, 1984 shows that with reference to the couplet registered on 17th June, 1984, the investigation had revealed that five employees by name Johnson, John, Selvaraj, Kandepan and Anandakumar (absconding) were found responsible for the offence and that the first four had been arrested on 19th June, 1984 at 8 p.m. By Ex. M-14 dated 23rd July, 1984, MW-7 Natraj further informed the II party that the absconding accused Anandakumar, the employee of the Catering Section had been arrested and on his information 47 wrist watches valued at Rs. 8,000 were recovered from his house. The management had thus additional evidence with it on 20th June, 1984 itself that in the investigation of the police, the I party workman Selvaraj was found to be one of the persons responsible for the theft of the said parcel.

43. The evidence of MW-7 Natraj on page 64 of Ex. M-2 shows that after he took up investigation, he ascertained the addresses of the five delinquent employees, searched their houses, but they were not found in their houses. He has then stated that on 19th June, 1984 at 8 p.m. the delinquent employees K. J. Johnson, D. John, D. Selvaraj, M. Kandepan were arrested and taken to the airport police station and their voluntary statements were recorded separately. He has then proceeded to state that on the information furnished by them, 100 HMT watches were recovered from the possession of one Ahmed Khan with the boxes in tact and that the concerned fiat car CAH 7663 used for the transport of the watch parcel from the airport had also been seized and permission had been obtained from the court to retain the property with the police. His evidence further discloses that on 20th June, 1984, the said four persons including Selvaraj were produced before the concerned Magistrate with a request for remand, and that on 21st June, 1984 one Rajanna who had assisted these persons to transport the parcel from airport to Kalasialyam had been arrested and on his voluntary statement 100 Siwa watches had been recovered. He has further stated that on 22nd July, 1984, the fifth delinquent employee Anandakumar had been arrested and on his voluntary statement, forty seven wrist watches had been recovered from his house. The mahazar under which the properties were seized has been proved by MW-7 Natraj and a copy of the same has been marked as Ex. M-16. Similarly, the copies of the mahazars dated 21st June, 1984, 22nd July, 1984 regarding the seizure of 100 watches at the instance of one Rajanna and forty seven watches at the instance of Anandakumar has been marked as Exs. M-17 and M-18. From the evidence of MW-7 Natraj and these documents, the learned counsel for the II party contended that the I party workman and some other employees had been indulging in thefts of watches and that it has been proved that they are unworthy of the facilities provided to them by the employer. As observed earlier, this Tribunal is not concerned about the alleged misconduct of other delinquent employees. The evidence of MW-7 Natraj and the mahazar at Ex. M-16 show that at the instance of the I party and in pursuance to the information given by the I party and all the said other delinquent employees the police and the panchas had gone to the shop of one Ahmed Khan and on being pointed out by the I party and the said others, the said Ahmed Khan, in turn identified the I party and the said others and from a gunny bag, kept hidden, in his shop took out a box and that the box had the marking as from—"HMT Limited, Bangalore" on one side and on the other side "Watches, Handle with Care" and on the top side 48/...../2296 to HMT, Bhoral". The mahazar further discloses that on opening the box, one hundred watches were found of different marks and that the same were seized. The mahazar Ex. M-16 bears the signature of MW-7 Natraj. It has been duly proved by him. Page 72 of the enquiry proceeding file, Ex. M-2 shows that on 28th September, 1985, MW-8 Muniappa had been produced by the management and before he started giving his evidence after lunch at 2.40 p.m. the fourth delinquent D. John did not allow the enquiry to proceed. The Enquiry Officer has recorded that despite personal requests,

D. John did not allow the witness to reply and used bad and abusive language and as a consequence, the enquiry could not be proceeded with and the witness refused to appear and give evidence. The reason as to why Muniappa, one of the mahazar witnesses has not been examined is thus obvious. The learned counsel for the I party argued that the conduct and behaviour of I party workman during the course of the enquiry was admittedly good and the non-availability of the evidence of MW-6 Subramaniam or MW-8 Muniappa can be no ground to draw any adverse inference against the I party workman. Indeed, nothing can be attributed against the workman as regards the non-availability of the evidence of MW-6 Subramaniam or MW-8 Muniappa. However, the fact remains that the management made genuine and sincere attempts to produce independent mahazar witnesses and also the only eye witness, but for reasons beyond its control, the management could not make available such evidence. In that context, it cannot be said that the management is not justified in urging before this Tribunal that the best possible evidence of that of MW-7 had been produced and that his evidence has been sufficiently corroborated by the mahazar, Ex. M-16. When MW-7 was examined on 9th September, 1985, all the delinquent employees including the I party sought for time for cross-examining the said witness on the ground that they intended to consult their lawyers. The matter was then adjourned to 23rd September, 1985. The record shows that on 28th September, 1985 MW-7 Natraj, Circle Inspector of Police had been tendered for cross-examination. On that day, the Enquiry Officer asked the workman Selvaraj that on 9th September, 1985, he wanted time to cross-examine MW-7 on the ground that he intended to consult his lawyer, and that at the moment MW-7 was present and that he may cross-examine him. The workman has thereupon stated that he would cross-examine him next time. The workman has not assigned any reason as to why he intended to cross-examine on the next date and why he was not ready on that date. The evidence of MW-7 has thus gone unchallenged, for the default of the workman.

44. In the case of State of Haryana Vs. Rattan Singh (1982 I LLJ page 46) it has been laid down that in a domestic enquiry, the sophisticated rules of evidence under the Evidence Act may not apply and that all materials which are logically probative for a prudent mind are permissible. It has been further stated that there is no allergy to hearsay evidence, provided that it has reasonable nexus and credibility. However, a caution is given that the Tribunal must be careful in evaluating such material and should not swallow glibly what is strictly speaking not relevant under the Evidence Act. In the case at hand, MW-6 who actually saw the theft came shouting and running to MW-5 Charles and had told him the names of all these delinquent employees including the I party as the persons who had lifted a parcel. MW-5 Charles had no time even to think over the matter and reported the same to MW-1 Menon. The complaint to the police given by Menon Ex. M-4, the letter of the said Charles to the management Ex. M-9 that of Subramaniam Ex. M-10 have come into existence without there being any premeditated thinking or deliberation or plan. The subsequent conduct of MW-1 and MW-5 Charles has been sufficiently substantiated and corroborated by the evidence of MW-2 Sailendrakumar and MW-7 Natraj. Crowned all these factors, there is the undisputed fact that the parcel was intact recovered in pursuance to the information given by the I party workman from the custody of Ahmed Khan. In the light of the principles laid down in the authorities of Union of India Vs. Sardar Bahadur and State of Haryana and Rattan Singh cited above, a finding emerges that the said evidence is satisfactory and that any reasonable person could have arrived at the finding complained of, on the basis of the material produced before the Enquiry Officer.

45. The learned counsel for the I party cited the case of Anandaram Jiandhai Vaswani Vs. Union of India and others (1983 II LLJ page 122). The principle enunciated in the authority is that if a finding is vitiated in law, it cannot be sustained. The finding of guilt arrived at by the Enquiry Officer in the present case is based on the oral evidence of MW-1 Menon and MW-5 Charles and MW-7 Natraj and the documents at Ex. M-3, Ex. M-4, Ex. M-6, Ex. M-9, Ex. M-10, Ex. M-13, Ex. M-15 and Ex. M-16. Thus, it is not a case where the finding of the Enquiry Officer is vitiated in law.

46. The learned counsel for the I party cited the case of K. C. P. Employees' Association, Madras Vs. Management

of K.C.P. Ltd., Madras and others [1978 (1) LLJ page 322]. In para 6 of the authority it has been stated that if there is any doubt, when the benefit of such reasonable doubt on law or facts must go to the weaker Section, viz., the labour. In the foregoing analysis of the evidence, as placed before the Enquiry Officer and as discussed by him, I find that it is not a case where there was any reasonable doubt, the benefit of which should have been given to the workman. The authority is therefore of no avail.

47. The learned counsel for the I party referred to the case of Rajinder Kumar Kindra Vs. Delhi Administration through Secretary (Labour) and others [1984 (2) LLJ page 517] and urged that there was no evidence before the Enquiry Officer and that his findings are perverse. The authority is on the point that Under Section 11-A of the I.D. Act, this Tribunal can reappraise the evidence and arrive at a conclusion whether the findings are perverse or not. If the findings are based on no evidence or if they are based on conjectures and surmises, the findings would be perverse. It has been elaborately discussed as to how the letter of MW-6 Subramaniam to the management, Ex. M-10 is admissible in evidence. It has been further examined and a finding has been recorded that the evidence of MW-1 Menon, MW-6 Charles and MW-7 Natraj along with the documents such as Ex. M-3, Ex. M-9, Ex. 10, Ex. M-13, Ex. M-15 and Ex. M-16 has established the fact that on the night of 16th June, 1984 itself, the management had identified the I party workman as one of the culprits and as to how the parcel of watches had been recovered in pursuance to the statement by the I party before MW-7 Natraj, Circle Inspector of Police. In my view, it is not a case where the findings are based on conjectures and surmises.

48. The learned counsel for the I party has further cited the case of Anil Kumar Vs. Presiding Officer and Others [1986 (1) LLJ page 101]. The rule laid down in the authority is that in a quasi-judicial enquiry the report of the Enquiry Officer should assign reasons for the findings. In the report submitted by the Enquiry Officer, the evidence has been briefly set out. Then it has been analysed separately in regard to the case against each delinquent employee. The Enquiry Officer has further discussed the evidence adduced on behalf of the delinquent employee and has then arrived at the findings. In the case at hand, he has discussed the evidence of the sole witness examined by the workman M. Anthony. DW-2 Anthony had stated before the Enquiry Officer that on 16th June, 1984, the I party Selvaraj was in his house throughout the day till 10 p.m. He further stated that since the workman did not return on the following Wednesday, DW-2 went in search of him and subsequently found that he had been taken to the police station in connection with the incident of 16th June, 1984. In his cross-examination DW-2 Anthony asserted that he maintains a dairy and therein, he writes about the facts, whenever he finds there is any emergency. The witness did not produce any such diary. Since the witness has stated that he had gone, made enquiries and subsequently had gone to the lawyer and got the I party workman released on bail, he has been questioned as to whether he knows anything about the incident in question. The witness has stated that he did not know anything. The witness has further stated that he does not know whether the workman Selvaraj is married or not. The Enquiry Officer has considered all these aspects and has not accepted his evidence. The I party workman had given his explanation to the charge-sheet issued to him. His explanation is dated 26th September, 1984. There is not a whisper in the said explanation that on the relevant day, 16th September, 1984, he was in the house of his friend. DW-2 Anthony throughout the day till 10 p.m. After the management received the report of the Enquiry Officer the second show cause notice had been issued to the I party. It is on page 151 of the file Ex. M-2. The reply given by the I party dated 11th February, 1987 is at page 152 of the same file. Though by the time he had given his explanation, he had already examined DW-2 before the Enquiry Officer, it has not been reiterated in his reply that on that day he was in the house of Anthony. Until DW-2 was produced before the Enquiry Officer on 28th September, 1985 there was no case put forth by the I party workman that on 16th June 1984, he was in the house of his friend DW-2 Anthony till 10 p.m. It has been already discussed as to how the evidence of MW-1 Menon and MW-5 Charles is unimpeachable on the point that on 16th June, 1984 both of them had found the I party Selvaraj

in the company of Kandeepan in the rest room within the premises of the airport and there is no dispute on the point that Kandeepan was working in the city office and not in the airport. In my view, the aforesaid facts and circumstances would lead to an irresistible conclusion that the evidence of MW-1 Menon and MW-6 Charles was certainly preferable to that of DW-2 Anthony. The finding of the Enquiry Officer that the I party workman was in the rest room within the airport premises on 16th June, 1984 when he was on off-duty, a few hours before the commission of theft and that too in the company of Kandeepan is a material fact connecting him to the offences of theft.

49. The learned counsel for the I party contended that MW-7 Natraj, Circle Inspector of Police would not have taken the statement of Selvaraj. The evidence of MW-7 Natraj shows that on 17th July, 1984 itself, he had taken over the investigation from Govindaraj, the Sub-Inspector of Police and an Investigating Officer has the power to interrogate and record the statements of witnesses and persons. Reading Sections 26 and 27 of the Indian Evidence Act together, it follows that a confession made by an accused, while in the custody of the police, to the investigating officer can be admitted in evidence if in consequence of the information received from the said person leads to discovery. In the case at hand, the information given by the I party workman to the Circle Inspector of Police MW-7 Natraj has led to the discovery of Ahmed Khan and the stolen parcel of watches, found intact. The contention of the learned counsel for the I party, is therefore, not sustainable.

50. The learned counsel for the I party contended that Ex. M-9 is a get-up document. Not only against MW-5 Charles, but also against MW-1 Menon or MW-7 Natraj, there is ever any motive suggested as to why they should fabricate documents or commit forgery.

51. The learned counsel for the I party contended that MW-5 Charles had neglected his duty, since he has not taken effective action, though he had found Selvaraj and Kandeepan in the rest room at about 7 p.m. It has been already observed that Selvaraj and Kandeepan were the employees of the Indian Airlines and if MW-5 Charles had overlooked the fact and had reported only about it to MW-1 Menon, it cannot be said that he was negligent in his duties.

52. The learned counsel for the I party contended that the workman was not allowed to cross-examine the Inspector of Police and therefore his evidence cannot be pressed into service against him. If a workman does not avail of several opportunities given to him for cross-examining a witness and suffers, the evidence of such witness to go unchallenged, it cannot be said that the principles of natural justice were not complied with or that fair and reasonable opportunity was not given to him or that the Enquiry Officer or the management has not acted with justice and fairness. The submission is not at all convincing.

53. In the claim statement, it has been alleged that the management has dismissed the I party workman in colourable exercise of its powers. A careful scrutiny of the evidence placed on record and on due reappraisal, it is found that the findings of the Enquiry Officer are beyond reproach. The management has accepted the findings of the Enquiry Officer and has dismissed him from service. The appeal filed by the workman has been considered on merits and has been rejected with reasons. It is a considered order. Looking at the proceedings placed before me, it is difficult to accept the contention that he has been dismissed on account of colourable exercise of powers of the management.

54. In para 7 of the claim statement, it has been contended that the I party has been victimised and that the management has indulged in unfair labour practice and that its action is mala fide. Particulars of victimisation have not been stated. There is no iota of evidence to substantiate the contention that he has been victimised or the management has acted with mala fides or that it has indulged in unfair labour practice.

55. The learned counsel for the I party, time and again referred to the case of PIB, Rocho Vs. Union of India and

others, cited above. The standard of proof required in the present case was that of preponderance of evidence, as adopted by the civil court. Having applied the said test, it is found that the management has established the guilt of the I party and there is no force in the contention that it has failed to prove its case.

56. The case of the Board of Trustees of the Port of Bombay Vs. Dilipkumar Raghavendranath Nadkarni and others (1983 I L.L.J. Page 1), has been referred to by the I party, but it deals with the representation of the parties and that matter has been already concluded while dealing with the preliminary issue.

57. The learned counsel for the I party has then placed reliance on the case of Scooter India Ltd., Lucknow Vs. Labour Court, Lucknow and Others (1989 (1) L.L.J. page 71). In the reported case, the workman had indulged in distribution of pamphlets and looking at the gravity of the misconduct, the Tribunal had exercised its powers under Section 11-A of the I.D. Act. The rule laid down in the authority cannot be invoked in a case where the misconduct is of theft and dishonesty with the employer's property. It is too obvious to express that it is not a case to invoke the provisions of Section 11-A of the I. D. Act.

58. Looking from any angle, I am of the view that the management of Indian Airlines was justified in dismissing him from service.

59. In the result, an award is passed to the effect that the management of Indian Airlines, Bangalore was justified in dismissing Shri D. Selvaraj, Loader from service with effect from 15-5-1987, and that he is not entitled to any relief.

(Dictated to the Personal Assistant, taken down by her, go' typed and corrected by me.)

B. N. TALGE, Presiding Officer
[No. L-11012/14/88-D.III(B)]

का.प्रा. 2432—शैशोगिक विवाद प्रधिकारण, [1947(1947 का 14) की धारा 17 के प्रयोग में, फैसलों सरकार पारदौप पोर्ट ट्रस्ट पारदौप के प्रबंधन के सम्बद्ध नियोजनों और उनके कर्मकारों के बीच, अन्वयन में शिविट शैशोगिक विवाद में शैशोगिक प्रधिकारण, मुक्तेश्वर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-9-89 को प्राप्त हुआ था।

S.O. 2432.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Paradip Port Trust, Paradip and their workmen, which was received by the Central Government on 5-9-89.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR
PRESENT :

Shri S. K. Misra, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar,

Industrial Dispute case No. 16 of 1988 (Central)

Dated. Bhubaneswar, the 29th July, 1988

BETWEEN

The Management of Paradip Port Trust, Paradip—First Party Management.

AND

Their workmen
Sri Ramesh Chandra Nayak
represented through
Utkal Port & Dock Workers Union,
Brundaban Housing Complex,
Paradip Port, Paradip, Second Party-workmen.

APPEARANCES :

Shri H. K. Mohanty, Legal Officer, Paradip Port Trust, Paradip—for the First Party-management.

Sri B. Panda, Dy. General Secy., Utkal Port & Dock Workers Union—for the Second Party-workmen

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred for adjudication by this Tribunal the following dispute vide their order No. L-38012/1/87-D.IV(A) dated 8-6-88 :

“Whether the action of the management of Paradip Port Trust in imposing a punishment of three months of suspension without pay i.e. from 2-9-86 to 1-12-86 on Shri Ramesh Ch. Nayak is justified ? If not, to what relief the workman is entitled ?

2. The second party-workman through Utkal Port and Dock Workers Union, Paradip Port Trust filed a statement of claim stating that on 10-6-86 he was asked by the A.T.M. (L), Paradip Port Trust to explain within 72 hours as to why disciplinary action should not be taken against him for assaulting Sri A. Behera, Supervisor No. 33 on 3-6-86 at about 9.45 hours. The second party-workman submitted his explanation on 12-6-86 denying the allegation. On 17-6-86 the Additional Traffic Manager ordered an enquiry to the allegation and the Assistant Traffic Manager (I.) was appointed as the Enquiry Officer. On 23-6-86 the second party-workman submitted his explanation denying the allegation. On 1-9-86 order was passed by the Additional Traffic Manager, Paradip Port Trust placing the second party-workman under suspension for a period of three months and directing that during the period of suspension he would not be entitled to any financial benefit and the period of suspension shall be treated as break in service. According to the second party-workman, the order passed by the management putting him under suspension was malafide, in as much as, reasonable opportunity was not offered to him during the enquiry and principles of natural justice were not followed. It was claimed by the second party-workman that the aforesaid order of the management should be quashed.

3. The first party-management filed written statement stating inter alia that in the enquiry conducted against the second party-workman all reasonable opportunities were given to him and there was no violation of principles of natural justice. It is stated that the second party-workman never desired to examine any witness in his defence, which was denied.

4. On these pleadings the following issues were framed :

ISSUES

(1) If the action of the Management of Paradip Port Trust in imposing the punishment of three months of suspension without pay from 2-9-1986 to 1-12-86 on Sri Ramesh Chandra Nayak is justified ?

(2) To what relief, if any, the workman Sri Nayak is entitled ?

5. ISSUE NOS. 1 & 2 :

At the preliminary hearing of this proceeding it was found that on 3-6-86 by an order passed by the Asst. Traffic Manager (I), Paradip Port Trust the second party-workman was asked to appear before him on 6-6-86 at 11 O'Clock for an enquiry into the complaint received against him that :

(i) He misbehaved with Sri A. Behera, Supervisor No. 33 in IIIrd shift of 2-6-86

(ii) He instigated other workers to slow down the work on 2-6-86.

Again on 10-6-86 an explanation was called for from the second party-workman by the Assistant Traffic Manager (L) in which it was stated that on 3-6-86 at about 9.45 hours the second party-workman alongwith other workers left the call counter after giving his attendance and came to the Supervisor's call counter, where he assaulted Sri Adikanda Behera, Supervisor No. 32 in presence of other members of the staff. He was directed to submit explanation within 12 hours as to why disciplinary action u/s. 25 of the Cargo Handling Scheme would be taken against him for such indiscipline and misconduct. On 12-6-86 the second party-workman submitted explanation stating that on 3-6-86 after giving attendance he went to his place of duty and that on that day neither he went to the Supervisor's call stand nor did he saw the Supervisor Sri A. Behera. He specifically stated that the allegation against him was wholly false and imaginary. On 17-6-86 by an office order passed by the additional Traffic Manager, an enquiry was directed to be held against the second party-workman and the Asst. Traffic Manager(L) was appointed as the Enquiry Officer to enquire into the charges against him. On 17-6-86 a statement of imputation of misconduct on which action was proposed to be taken against the second party-workman under the Mazdoor Cargo Handling Scheme, 1979 was served on the second party-workman, wherein list of witnesses was furnished. The Enquiry Officer by his order dated 20-6-86 fixed 24-6-86 for enquiry. On 23-6-86 the second party-workman submitted an application to the Additional Traffic Manager, Paradip Port Trust, in reply to his order dated 17-6-86 stating that besides what he has stated in his explanation dated 12-6-86 relating to the charges levelled against him he had nothing more to say. He requested that he should be exonerated from the false charges. In the said explanation he gave a list of three witnesses. On 24-6-86 enquiry was conducted on which date Sri Niranjan Mishra, a Supervisor was examined. To a question asked to him as to if he had seen the mazdoor assaulting Sri Adikanda Behera, he replied that he had not seen anybody assaulting him. He was then asked that on 3-6-86 at 10.45 A.M. he had disclosed the name of the complainant before the Asst. Traffic Manager(I) and he replied that he had simply taken Sri A. Behera to the Hospital and had stated nothing to the Asst. Traffic Manager (L). Another witness, named, Sri Kailash Chandra Biswal also stated that there was some disturbance on 3-6-86 but he could not identify as to who assaulted Sri Adikanda Behera. On the same day, the second party-workman was also examined by the Enquiry Officer. He was asked that on 2-6-86 he had instigated other workers to slow down work, for which Adikanda Behera had reported against him. He replied that on 10-6-86 he had attended the enquiry held in this respect and he has stated in that enquiry that he did not instigate any worker as alleged. He was asked that on 3-6-86 at 10.45 in the night he alongwith some other workers abused Adikanda Behera at his counter and assaulted him. He replied that on 3-6-86 after giving attendance he went to the place of his duty and he did not know about any occurrence. Thereafter, on 1-9-86, order was passed to the effect that the second party-workman was found guilty of the charge of leading a group of workers in the night of 3-6-86 at about 9.45 P.M. at the call stand and assaulting Sri Adikanda Behera, Supervisor No. 33. Under rule 25 of Cargo Handling Workers (Regulation of Employment) Scheme, 1979, he was inflicted the punishment of suspension for a period of three months with loss of pay and loss of service continuity.

6. It was contended on behalf of the second party-workman that the Asst. Traffic Manager(L), Paradip Port Trust in his memo to the second party-workman dated 3-6-86 mentioned the allegation against him as that he misbehaved with Sri A. Behera, Supervisor No. 33 in the IIIrd shift of 2-6-86 and further that he instigated other workers to slow down the work on 2-6-86, whereas in the subsequent letters it was mentioned that the occurrence took place in the night shift of 3-6-86. It was alleged that this date was changed by the Asst. Traffic Manager (I) purposefully. It was further alleged that the witnesses, who were examined on behalf of the management on 24-6-86 to prove the charges against him, namely, Sri Niranjan Mishra and Sri Kailash Chandra Biswal did not support the management's case against the second party-workman. On the same day, the second party-workman

was also examined by the Enquiry Officer and he denied the charges but the Enquiry Officer subsequently examined another witness, named, Sri Santosh Mandal on 12-8-86 and on the basis of the statement made by him, found him guilty. It was alleged that after examination of the delinquent-workman, the Enquiry Officer instead of closing the case and exonerating the workman from the charges because there was no evidence against him, waited until examination of another witness for the management on 12-8-86 which prejudiced the delinquent-workman. According to the workman, such procedure adopted by the Enquiry Officer can not be ignored as a procedural defect but it amounts to negation of fair play and on this score alone the finding of guilt recorded against him and the punishment inflicted on him on the basis of the finding has to be quashed.

7. The Legal Officer of the Paradip Port Trust, who was not in possession of the entire file to make submissions on the aforesaid matters, was given opportunity to support the management's action for a misconduct for which there was no evidence before the delinquent-workman was examined, particularly in the circumstances that in the first letter issued the delinquent-workman there was allegation that the occurrence took place on 2-6-86 but the enquiry proceeded on the allegation that the occurrence took place on 3-6-86.

8. On 18-7-89, to which date the proceeding was posted for the aforesaid purpose, a petition was filed on behalf of the Management stating that the Management was ready to pay the wages of the second party-workman for the period of three months during which he was kept under suspension on submission of a bond by him that he would not misbehave with any other employees working in Paradip Port Trust hereafter. It was further stated that in the past also, the workman had indulged in committing such offences. I have heard the representatives of both parties on this matter. On a consideration of the documents filed in this case, the respective plea advanced by either side and the submission made by both parties, I would hold that the order of suspension for a period of three months passed by the Management on 1-9-86 is illegal and invalid and the same is bound to be quashed.

So far as the submission made by the Management that the second party-workman should execute a bond to the effect that in future he would not misbehave with other employees of the Paradip Port Trust, law does not warrant such a procedure, in the absence of a finding about the guilt of the delinquent. However, for the purpose of maintaining industrial peace and harmony, it is necessary that there should be absolute discipline maintained at the work site. Documents filed in this case as also the pleas advanced by both parties indicate that there was some disturbance at the work site in the night of 2-6-86. Involvement of the second-party-workman in the said disturbance has not been proved. There is, however, apprehension in the mind of the employer that the second party-workman may create such disturbance in future for which the management insists to execute a bond by him. I think, in the circumstances of this case, the following observation by me would be sufficient to deter the workman or for that matter any employee working at Paradip Port Trust, not to indulge in any activity which would be considered as subversive of discipline. In case the management finds that the second party-workman is indulging in any such activity in course of his employment in the Port Trust, they are free to take drastic disciplinary action against him under the appropriate rules, scheme or Standing Orders.

9. In the circumstances, the reference is answered as below:—

The action of the management of the Paradip Port Trust in imposing the punishment of suspension for a period of three months i.e. from 2-9-86 to 1-12-86 without pay, on the second party-workman Sri R. C. Navak, is illegal and unjustified. The Management's further plea that during the period of suspension the workman will not be entitled to any financial benefit and the period of suspension shall be treated as break in his service is also bad in law. The

second party-workman is entitled to his wages and all other financial benefits admissible to him during the period from 2-9-86 to 1-12-86.

S. K. MISRA, Presiding Officer
[No. L-38012/1/87-D.IV(A)/D.III(B)]

का.आ. 2433-ओद्योगिक विवाद अधिनियम, 1947(1947 का 14) का प्रारा 17 के अनुसरण में, केंद्रीय सरकार, कलकता पोर्ट ट्रस्ट कलकता के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केंद्रीय सरकार ओद्योगिक अधिकारण, कलकता के पर्चट को प्रकाशित करेंगे हैं, जो केंद्रीय सरकार को 5-9-89 को प्राप्त हुआ था।

O. 2433.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Calcutta Port Trust Calcutta and their workmen, which was received by the Central Government on 5-9-89.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 70 of 1986

PARTIES :

Employers in relation to the management of Calcutta Port Trust.

AND

Their Workmen

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of employer.—Mr. P. Roy, Industrial Relation Officer.

On behalf of Workmen.—Mr. K. K. Roy Ganguly, Vice-President of Calcutta Port & Shore Mazdoor Union, Mr. N. C. Nandy, Joint General Secretary of Calcutta Port & Dock Workers' Union, Mr. A. K. Mukherjee, Joint Secretary of National Union of Water front Workers, Mr. A. N. Ganguly, General Secretary of United Port & Dock Workers' Union and Mr. A. Banerjee, General Secretary of Calcutta Port & Dock Industrial Workmen Union.

STATE : West Bengal.

INDUSTRY : Port.

AWARD

By Order No. L-32011/4/85-D.IV(A) dated 31st October, 1986, the Government of India, Ministry of Labour, referred the following dispute to this Tribunal for adjudication :—

"Whether the proposal of the management of Calcutta Port Trust to effect change in the service conditions of the workmen of the mobile crane handling equipment section in the matter of shift duties from 1:1:1 to 3:3:1 and subsequently changing the booking ratio to 2:2:1 with effect from 1-9-1985 is justified? If not, to what relief are the workmen concerned entitled?"

2. In this reference five Unions are involved. Four of them already arrived at a settlement in the matter and filed the Joint Petition of Compromise duly signed by them

on 2-5-1989. This day another Joint Petition of Compromise between the Management and the remaining Union namely, Calcutta Port & Shore Mazdoor Union duly signed by the respective parties has been filed. All the parties pray for an Award in terms of the said Joint Petitions of Compromise.

3. Considered the Joint Petitions of Compromise as well as the submission of the parties. The terms of the Joint Petitions of Compromise appear to be fair, reasonable and in the interest of the parties. I therefore, accept the same and pass an Award in terms of the said Joint Petitions of Compromise, which do form part of this Award as Annexure—'A' and Annexure—'B'.

This is my Award.

Dated, Calcutta,

The 24th August, 1989

Sd/-

SUKUMAR CHARRAVARTY, Presiding Officer

ANNEXUE—'A'

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CALCUTTA

In the matter of Reference No. 70 of 1986

AND

In the matter of Government of India Ministry of Labour Order No. L-32011/4/85-D.IV(A) dated 31-10-86.

AND

In the matter of Notice No. Ref. 70/86/76 dated 9-1-87 issued by the Secretary to the Court, Central Government Industrial Tribunal, Calcutta.

AND

In the matter of Industrial Dispute between the employers in relation to the Management of Calcutta Port Trust, Calcutta.

AND

Their Workmen

Represented by :

The United Port & Dock Workers Union, 49/1, Circular Garden Reach Road, Calcutta-700023, the Calcutta Port & Dock Industrial Workmen Union, 26, Hari Sabha Street, Calcutta-700023, National Union of Waterfront Workers, 15, Coal Dock Road, Calcutta-700043, Calcutta Port & Shore Mazdoor Union, 40D, Watunge Street, Calcutta-700023 and the Calcutta Port & Dock Workers Union, 27B, Karl Marx Sarani, Calcutta-700023.

Humble petition of the applicants, employers in relation to the Management of Calcutta Port Trust, Calcutta and the workmen represented by the United Port & Dock Workers Union, Calcutta Port & Dock Industrial Workmen Union, National Union of Waterfront Workers and Calcutta Port & Dock Workers Union (hereinafter referred to as the 'Board' and the 'Unions' respectively in the matter.

Most Respectfully Sheweth :

1. That your petitioners submit that the Government of India, Ministry of Labour under its order No. L-32011/4/85-D.IV(A) dated 31-10-86 referred to the Hon'ble Tribunal the dispute in respect of the matter specified in the schedule below :—

"THE SCHEDULE

Whether the proposal of the Management of Calcutta Port Trust to effect change in the service conditions

of the workmen of the Mobile Cargo Handling Equipment Section in the matter of shift duties from 1:1:1 to 3:3:1 and subsequently change the booking ration to 2:2:1 with effect from 1-9-1985 is justified? If not, to what relief are the workmen concerned entitled?"

2. That your petitioners state that in the meanwhile the matter has been further discussed amongst ourselves and we agree to the continuance of the present arrangement of booking of the concerned workmen in the Morning shift, Afternoon shift and Night shift in the ratio of 2:2:1 respectively with the provision that booking shall be arranged in such order and change-over from one shift to another will not involve working in two consecutive Morning or Afternoon shifts.

3. That your petitioners submit that the above reference before the Hon'ble Tribunal may kindly be disposed of in terms of the above compromise.

Under the above circumstances, your petitioners most humbly pray that your Honour would be graciously pleased to consider the matter in terms of the above agreement and give an award accordingly.

And for this, your petitioners as in duty bound shall ever pray.

(D. K. Mukherjee)

Labour Adviser &
Industrial Relations Officer,

Calcutta Port Trust

(Janaki Mukherjee)

General Secretary,
National Union of

Waterfront Workers
and

(R. C. Nandy)

Joint General
Secretary,

Calcutta Port &
Dock Workers
Union.

(A. N. Ganguli)

General Secretary,

United Port and Dock Worker's Union

(A. Banerjee)

General Secretary,

Calcutta Port & Dock Industrial
Workmen Union.

Witness :

1. Mrinal Kanti Roy Choudhury M/c. Driver Item No.
135.

2. Surender Ch. Mondal, M/s. Driver, Item 104 under
M.C.H.E.

Calcutta :

Dated the 2nd day of May, 1989

ANNEXURE 'B'

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

In the matter of Reference No. 70 of 1986

AND

In the matter of Government of India, Ministry of Labour Order No. L-32011/4/85-D.IV(A) dated 31-10-86

AND

In the matter of Notice No. Ref. 70/86/76 dated 9-1-87 issued by the Secretary to the Court, Central Government Industrial Tribunal, Calcutta.

AND

In the matter of Industrial Disputes between the employers in relation to the Management of Calcutta Port Trust, Calcutta.

AND

Their workmen

Represented by

The United Port and Dock Workers Union, 49/1, Circular Garden Reach Road, Calcutta-700023, the Calcutta Port and Dock Industrial Workmen Union, 26, Hari Sabha Street, Calcutta-700023, National Union of Waterfront Workers, 15, Coal Dock Road, Calcutta-700043, Calcutta Port and Shore Mazdoor Union, 40D, Watunge Street, Calcutta-700023, and the Calcutta Port and Dock Workers Union, 27B, Karl Marx Sarani, Calcutta-700023.

Humble petition of the applicants, employers in relation to the Management of Calcutta Port Trust, Calcutta and the workmen represented by the Calcutta Port and Shore Mazdoor Union (hereinafter referred to as the 'Board' and the 'Union' respectively in the matter).

Most Respectfully Sheweth :

1. That your petitioners submit that the Government of India, Ministry of Labour under its order No. L-32011/4/85-D.IV(A) dated 31-10-86 referred to the Hon'ble Tribunal the dispute in respect of the matter specified in the schedule below :

SCHEDULE

"Whether the proposal of the Management of Calcutta Port Trust to effect change in the service conditions of the workmen of the Mobile Cargo Handling Equipment Section in the matter of shift duties 1:1:1 to 3:3:1 and subsequently change the booking ratio to 2:2:1 with effect from 1-9-1985 is justified? If not, to what relief are the workmen concerned entitled?"

2. That your petitioners state that in the meanwhile the matter has been further discussed amongst ourselves and we agree to the continuance of the present arrangement of booking of the concerned workmen in the Morning shift, Afternoon shift and Night shift in the ratio of 2:2:1 respectively with the provision that booking shall be arranged in such order that change-over from one shift to another will not involve working in two consecutive Morning or Afternoon shifts.

That your petitioners submit that the above reference before the Hon'ble Tribunal may kindly be disposed of in terms of the above compromise.

Under the above circumstances, your petitioners most humbly pray that your Honour would be graciously pleased to consider the matter in terms of the above agreement and give an award accordingly.

And for this, your petitioners as in duty bound shall ever pray.

(D. K. Mukherjee),

Labour Adviser & Industrial

Relations Officer,

Calcutta Port Trust.

(K. K. Roy Ganguly),

Vice-President,

Calcutta Port & Shops Mazdoor Union

Witness :

1. Sd/- Illegible

2. Sd/- Illegible

Calcutta,

Dated the 7th day of August, 1989.

[No. L-32011/4/85-D.IV(A)/D.III(B)]

का. आ. 2434-बौद्धिक विवाद प्रधिनियम, 1947 (1947 का 14) का घारा 17 के प्रत्युत्तरण में, फैसला सरकार में प्रेसियर मिनरल्स कान्ट्रक्टर के प्रबोधनक सम्बद्ध नियोजकार्मी और उनके कर्मकारों के बीच, अनबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक प्रधिकारण में मुक्तेश्वर के पंचपट का प्राप्तिकरण है, जो केन्द्रीय सरकार को 5-9-89 को प्राप्त हुआ था।

S.O. 2434.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Precious Minerals, Contractor and their workmen, which was received by the Central Government on 5-9-89.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

PRESENT:

Shri S. K. Misra, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute case No. 1 of 1989 (Central)

Dated, Bhubaneswar, the 3rd August, 1989

BETWEEN

The Management of M/s. Precious Minerals, Contractor at Roida Mines of M/s. O. MDC Ltd., P.O. Barbil, District, Keonjhar...First Party-management.

AND

Their workmen Sri Kartika Oram and 49 others, represented through Barbil Workers' Union, Barbil. ...Second Party-workmen

APPEARANCES:

Sri M. Sharma Partner--For the First Party-management.

Sri N. K. Rout, Executive Member of the Union--For the Second Party-workmen.

AWARD

The Government of India, in the Ministry of Labour Department, in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute vide their order No. 1-27011/5/88-D.III(B) dated 21-12-1988 for adjudication:—

"Whether the demand of the Barbil Workers Union P.O. Bolani, Dist. Keonjhar, Orissa for reinstatement of Sri Kartika Oram and 49 other workmen by the management of M/s. Precious Minerals, Contractor of OMDC Ltd., at Roida Mines, P.O. Bhadrashahi, Dist. Keonjhar is justified. If so, what relief are the workmen concerned entitled to?"

2. This case was posted to today for recording settlement. The memorandum of settlement signed by the representative of the first party-management and the workmen and the Secretary of the Barbil Workers' Union received by post is put-up. As per the terms of compromise the workmen, who were admittedly employed by the first party-management are to be engaged with effect from 3rd May, 1989 with continuity of service with effect from August, 1989. Each of the workmen would be paid compensation of Rs. 250 within a month from the date of their joining and their names would be entered in the "B" register. The representative of the first party-management and the representative of the second

party-workmen submitted that they have settled the dispute out of Court in the interest of industrial peace and harmony and prayed to pass an Award in terms of the settlement. Both parties admitted the terms of the settlement before me. The settlement seems to be fair. Hence, I pass this Award in terms of the settlement. The memorandum of settlement do form part of the Award.

S. K. MISRA, Presiding Officer

Memorandum of Settlement between Barbil Workers Union and M/s. Precious Minerals in respect of I. D. Case No. 1/89 pending before the Presiding Officer, Industrial Tribunal, Bhubaneswar, held on 25-4-1989.

Short Recital of the Case :

M/s. Precious Minerals terminated the services of 50 nos. of Miners w.e.f. 3-5-1988 which was challenged by the Union by raising an Industrial Dispute before the Assistant Labour Commissioner (C), Rourkela. Conciliation proceedings ended in failure and accordingly the dispute was referred by the Central Government to the Presiding Officer Industrial Tribunal for adjudication.

In the mean time the Contractor, i.e. M/s. Precious Minerals approached the Union for a mutual Settlement and accordingly keeping the hardship suffered by the labourers due to non-employment in view and with the consent of the workmen involved, Union accepttd the offer of mutual settlement by the Contractor and hence this settlement is signed today, the 25th of April, 1989 on the following terms and conditions:—

TERMS OF SETTLEMENT

1. It is agreed by the parties that the concerned workmen shall be engaged w.e.f. 3rd May, 1989 with continuous service w.e.f. August, 1987.
2. Since the said workmen were arranged temporary employment during their period of non-employment due to the said illegal termination of service, and also keeping the financial condition of the Contractor as well as his paying capacity in view, it is agreed that the Contractor shall pay @ Rs. 250 (Rupees Two hundred fifty only) to each workmen involved as a token compensation amount with a month time from their date of joining.
3. It is agreed by the Contractor to re-enter the names of the workmen involved in the B-Register. A copy of the settlement is to be filed before the Industrial Tribunal.

Representative Management
For Precious Minerals,
M. M. Sharma,
Partner.

Representative, Workmen

(1) Sd/- (Illegible).

Secretary, Barbil Workers Union

(2) Sd/- Illegible

1. T Tl Mughu Oram
2. Sudan Pathar
3. Sd/- Illegible
4. Sd/- Illegible
5. Sd/- Illegible
6. Raju Oram
7. Bhuvan Pathar
8. Sd/- Illegible
9. Sd/- Illegible
10. Badal Oram
11. Sadhu Murla

12. Saibo Naik
13. Muna Munda
14. L.T.I.
15. Kuntika Oram
16. Potel Mahakud
17. Sd/- Illegible
18. Sd/- Illegible
19. L.T.I.
20. L.T.I.
21. Sohanai Oaram
22. Soma Oram
23. Suniya Party
24. Robi Mahakud
25. Roya Munda
26. Nillo Oram
27. Goutam Munda
28. Sukra Munda
29. Sd/- Illegible
30. Tonga Champia
31. Sambari Champia
32. Sd/- Illegible
33. Pabula Ponda
34. Simacholo Behera
35. Tainath Behera
36. Tarini Behera
37. Gangadhar Mohaval
38. Sd/- Illegible
39. Gura Munda
40. Chattu Ali
41. Dondasi Behera
42. Sd/- Illegible
43. Mangal Patra
44. Rajaram Gorai
45. Sd/- Illegible
46. Suresh Talty
47. Chakra Munda
48. Suresh Munda
49. Dhano Oram
50. Terka Oram.
51. Shyam Singh Nijinda.

[No. L-27011/5/88 D.III (B)]

का. प्रा. 2435—श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, फैक्ट्री मरकार पर्याप्ति नाईमस्टोन प्राई डोलमाइट कंपनी, पुरुपानी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मकारों के वीच घटनाकाल में निवाल श्रीयोगिक विवाद में दोनों दलों के अधिकारी, दोनों दलों के प्रत्यक्ष विवाद करने हैं, जो दोनों दलों की 5-9-89 को प्राप्त हुआ था।

S.O. 2453.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Pushapani Limestone & Dolomite Quarry, Purnapani and their workmen, which was received by the Central Government on 5-9-89.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

PRESENT :

Shri S. K. Misra, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar,

Industrial Dispute case No. 70 of 1987 (Central)
Dated, Bhubaneswar, the 1st August, 1989

BETWEEN

The management of Purunapani Limestone & Dolomite Quarry of Rourkela Steel Plant (SAIL), P.O. Purnapani, Dist : Sundergarh.

.....First Party-management.

AND

Their workmen

1. Sri Diba Kandulna

2. Manga Kujur

represented through the Vice-President, Rourkela Mazdoor Sabha...Second Party-workmen.

APPEARANCES :

Shri B. K. Mohapatra, representative of the management—For the 1st Party management

Shri J. Nag, Vice-President, Rourkela Mazdoor Sabha—For the Second Party-workmen.

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) and by their order No. L-29011/30/87-D.III(B) dated 11-11-87 have referred the following dispute for adjudication.—

"Whether the action of the management of Purunapani Limestone & Dolomite Quarries of Rourkela Steel Plant (SAIL), At/P.O. Purunapani, Dist : Sundergarh in refusing employment to S/Sri Diba Kandulna and Manga Kujur with effect from 1st March, 1987 is justified? If not, to what relief are the workmen entitled ?

2. The memorandum of settlement duly signed by both parties on 11-6-89 is put-up. The representative of the second party-workman and the representative of the first party-management submitted that they have settled the dispute out of Court in the interest of industrial peace and harmony and prayed to pass an Award in terms of the settlement. Both the parties admit'ted the terms of the settlement before the Lok Adalat held on 1-7-89 and also before this Tribunal. The settlement seems to be fair. Hence, I pass this Award in terms of the settlement. The memorandum of settlement do form part of the Award.

Dictated & corrected by me

Sd/-.

S. K. MISRA, Industrial Tribunal

Dt : 1-8-89.

FORM—A

(See Rule—64)

Form—for Memorandum of Settlement

Name of the Parties :

Representing Employer (a)—Shri B. K. Mohapatra, Employer Personnel (IR) SAIL, RSP, Rourkela

Representing workmen—Sri Jagdish Nag Vice, President Rourkela Mazdoor Sangh

SHORT RECIAL OF THE CASE

Whereas an Industrial Dispute (I. D. Case 78/87(c) is pending adjudication before the Industrial Tribunal.

Where the parties to the dispute intend disposal of this case on settlement as per terms set-out below :—

TERMS OF SETTLEMENT

1. It is agreed that in lieu of employment to Deba Kandulana and Manga Kuzur the 1st party Management will pay to each of the 2nd party workmen Rs. 16,000 (Rupees Sixteen Thousand only) in full and final settlement of all their claims.

2. It is further agreed that the payment as agreed to above will be made within thirty days of the due date of Publication of the Award.

3. The Union and the workman concerned shall not raise any other Industrial Dispute or otherwise pertaining to the Case No. 78/87(c) pending before the Industrial Tribunal.

(Sri R. C. Mishra)

Signature of the
Conciliation Officer

(Signature of the parties)

B. K. MOHAPATRA, Representative of Management.
(Jagadisha Nag)

Vice-President R.M.S.

Representative of Workmen
[No. L-29011/30/87-DIII(B)]

का. ग्रा. 2436—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा भांजा मिनरल्स (प्रा.) लि. की इनगानीजारन बैगवीज और आयरन माइन्स इनगानीजारन के प्रबंधतात्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकारण, मुद्रोक्षर के पंचपट को प्रकाशित करते हैं, जो केन्द्रीय सरकार को 5-9-89 को प्राप्त हुए था।

S.O. 2436.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Inganijharan Maganese and Iron Mines of M/s. Bhanja Minerals (P) Ltd. Inganijharan and their workmen, which was received by the Central Government on 5-9-1989.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR
PRESENT :

Smti. S. K. Misra, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute Case No. 9 of 1986 (Central)

Dated, Bhubaneswar, the 21st July, 1989

BETWEEN

The Management of Inganijharan Mn. & Iron Mines of M/s. Bhanja Minerals (P) Ltd., At/P.O Inganijharan, Via : Joda, Dist : Keonjhar (Orissa).—First party-management.

AND

Their workmen represented through the General Secretary, North Orissa Workers' Union—Second party-workmen.

APPEARANCES :

Sri R. Mishra, Agent of M/s. Bhanja Minerals (P) Ltd.
—For the first party-management.

Sri B. S. Pati, General Secy., North Orissa Workers' Union—For the second party-workmen.

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) and by their order No. L-26011/13/85-D.III (B) dated 13th August, 1986 have referred the following dispute for adjudication:—

“Whether the action of the management of Inganijharan Mn. & Iron Mines of M/s. Bhanja Minerals (P) Ltd., At/P.O. Inganijharan, Via : Joda, Dist. Keonjhar in removing the following workmen with effect from 25-2-1985 is justified. If not, what relief are the workmen entitled to :

1. Shri Govind Munda
2. Shri Chakra Munda
3. Shri Piru Munda
4. Shri Renso Munda
5. Shri Sabeyar Singh Munda
6. Shri Ratna Munda
7. Shri Lado Munda
8. Shri Kusa Munda
9. Shri Jairam Munda
10. Smt. Sukrimani Munda
11. Smt. Jatri Munda
12. Smt. Janani Munda
13. Smt. Surjo Munda
14. Smt. Sudra Munda

and

15. Smt. Subaso Munda.

The memorandum of settlement duly signed by both parties on 4-5-89 and the petition seeking disposal of the reference on settlement dated 11-5-89 are put up. The representative of the second party-workmen and the representative of the first party-management submitted that they have settled the dispute out of Court in the interest of industrial peace and harmony and prayed to pass an Award in terms of the settlement. Both the parties admitted the terms of the settlement before the Lok Adalat held on 1-7-89 and also before this Tribunal. The settlement seems to be fair. Hence, I pass this Award in terms of the settlement. The memorandum of settlement do form part of the Award.

Sd/-

S. K. MISRA, Presiding Officer
[No. L-26011/13/85-D.III(B)]

FORM H
(See Rule 58)

MEMORANDUM OF SETTLEMENT BETWEEN THE MANAGEMENT OF INGANIJHARAN MANGANESE AND IRON MINES OF M/S. BHANJA MINERALS (P) LTD. AND THEIR WORKMEN REPRESENTED BY THE NORTH ORISSA WORKERS' UNION THIS THE 4TH MAY, 1989

Name of the parties :

Representing the Employer :

1. Sri R. Mishra,
Agent,
M/s. Bhanja Minerals (P) Ltd.
2. Sri K. B. Sehgal,
M/s. Bhanja Minerals (P) Ltd.

Representing the workmen :

1. Sri B. S. Pati,
General Secretary,
North Orissa Workers' Union.
2. Sri S. C. Naik,
Secretary,
North Orissa Workers' Union.

SHORT RECITAL OF THE CASE

The General Secretary, North Orissa Workers' Union raised the Industrial Dispute over illegal removal from service of 15 workmen vide letter No. BL/MN/BMP[8(ii)]/85/101 dated 20th May, 1985 before the Assmt. Labour Commissioner (C), Rourkela. The conciliation proceeding was failed and the Central Government refer the dispute for adjudication vide Notification No. L-26011/13/85-D.III (B) dated 15th August, 1986. The case is registered Industrial Dispute case No. 9/86 (C) in the Court of the Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar. During the pendency of the case in the Court, the parties discussed the issue time to time and finally decided to settle the I. D. Case No. 9/86 (C) on the following terms and condition :

TERMS OF SETTLEMENT

- I. It is agreed by the employer to take back all the 15 workmen in their service on and from 5th May, 1989.
- II. It is agreed by the Management to pay a lump sum of Rs. 100 (Rupees five hundred only) in lieu of wages for the period of dispute till the date of joining i.e. 4-5-89.
- III. It is agreed between the parties that the workman who will not join his duty latest by 15th May, 1989 his case for joining duty will not be considered.
- IV. In view of the above agreed compromise settlement between the parties, the impugned dispute has been finally settled.
- V. It is agreed that this memorandum of settlement will be filed in the Court of the Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar with a prayer to pass award on the terms of settlement.

Representing the employer :

(R. Mishra)
(K. B. Sehgal)

Representing the workmen :

(B. S. Pati)
(S. C. Jain)

Witnesses :

1. Illegible
2. Illegible

Dated : 4th May, 1989.

[No. L-26011/13/85-D.III (B)]

का. भा. 2437-औरोगिक विद्युत अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्यासुरण में, भौतिक सरकार विसरा स्टोन लाइम कं. लि., बीरमज्जापुर के प्रबंधतान से सम्बद्ध नियोजन को और उनके कर्मकारों के बीच, भनुकंध में निकिट औरोगिक विद्युत में औरोगिक अधिकारण, भुबनेश्वर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-9-89 को प्राप्त हुआ था।

S.O. 2437 —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bisra Stone Lime Co., Ltd., Birmitrapur and their workmen, which was received by the Central Government on 5-9-89.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

PRESENT :

Shri S. K. Misra, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute Case No. 42 of 1988 (Central)
Bhubaneswar, the 25th July, 1989

IN BETWEEN

The management of Bisra Stone Lime Co. Ltd., Birmitrapur, Dist. Sundergarh, Orissa, First party-management.

AND

Their workmen—Smt. Nirashi Baddi and 11 others represented through the Gangpur Labour Union (INTUC) Second Party-workmen

APPEARANCES :

Sri M. C. Naik, Dy. General Manager (P)—for the First Party-management.

Sri B. Panigrahi, Treasurer—for the Second Party-workmen.

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute vide their Order No. L-29011/36/88-D.III (B) dated 17-11-88 for adjudication :

“Whether the action of the management of Bisra Stone Lime Co. Ltd., Birmitrapur, Dist. Sundergarh Orissa in retiring Smt. Nirashi Baddi and 11 others under VRS is justified ? If not, what relief are the workmen entitled to ?”

2. The memorandum of settlement duly signed by both parties on 4-5-89 and the petition seeking disposal of the reference on settlement dated 1-7-89 are put-up. The representative of the second party-workmen and the representative of the first party-management submitted that they have settled the dispute out of Court in the interest of industrial peace and harmony and prayed to pass an Award in terms of the settlement. Both parties admitted the terms of the settlement before the Lok Adalat held on 1-7-89 and also before this Tribunal. The settlement seems to be fair. Hence, I pass this Award in terms of the settlement. The memorandum of settlement do form part of the Award.

Dictated and corrected by me.

Dated : 23-7-1989

[No. L-29011/36/88-D.III (B)]

FORM 'H'

(See Rule 58)

FORM OF MEMORANDUM OF SETTLEMENT

MEMORANDUM OF SETTLEMENT ARRIVED AT BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR ON 4TH MAY 1989 OVER THE DISPUTE BETWEEN THE MANAGEMENT OF BISRA STONE LIME COMPANY LTD. BIRMITRAPUR AND THEIR WORKMEN REPRESENTED THROUGH GANGPUR LABOUR, UNION, BIRMITRAPUR

Name of the Parties

On behalf of the employer :

Mr. M. C. Naik, Dy. General Manager (Personnel) Bisra Stone Lime Co. Ltd., Birmtrapur.

On behalf of the workmen :

Sri Z. Kindo, Asst. Secretary, Gangpur Labour Union (INTUC) Birmtrapur.

SHORT RECITAL OF THE CASE

The Secretary, Gangpur Labour Union raised an Industrial dispute vide their letter dated 2nd June, 1988 before the Assistant Labour Commissioner (Central), Rourkela alleging forceful retirement of Smt. Niraso Baddi and 11 others in the name of Voluntary retirement by the General Manager (Mines) of Bisra Stone Lime Co. Ltd., Birmtrapur. On the failure of conciliation proceedings, the dispute has been referred for adjudication before the Presiding Officer, Industrial Tribunal, Bhubaneswar and on the same issue Industrial Dispute Case No. 42/88 (C), is pending for hearing before the Industrial Tribunal.

In the course of hearing both parties had good deal of discussion to settle the dispute amicably. The parties explained their respective points. After considering all the aspects of the matter and with a view to maintain peaceful and harmonious industrial relations between the Company and the Union, the parties resolved the dispute finally on the following terms :—

Terms of Settlement

(1) The dispute was raised in favour of the following employees :

1. Smt. Niraso Baddi
2. Lalma Baghwar
3. Sukhram Toppo
4. Khaira Jaipuria
5. Parbati Neoria
6. Susani Samasi
7. Duggu Majhi
8. Rupan Nag
9. Muni Kerketta
10. Kasturi Baraik
11. Rajkishor Kana
12. Md. Suel Imam

Out of the above 12 employees, the following 8 (eight) employees have already settled their accounts under the Voluntary retirement scheme and have drawn the benefits under the scheme as mentioned below. Hence the following workmen do not press the dispute referred above.

Name	Date of application	Date of retirement	Date of payment
1. Niraso Baddi	2.11.87	17.2.88	6.9.88
2. Lalma Baghwar	27.10.87	18.2.88	29.9.88
3. Sukhram Toppo	30.10.87	18.2.88	23.10.88
4. Khaira Jaipuria	15.10.87	18.2.88	11.11.88
5. Parbati Neoria	26.10.87	18.2.88	8.11.88
6. Susani Samasi	2.11.87	17.2.88	28.8.88
7. Duggu Majhi	13.10.87	17.2.88	1.9.88
8. Rupan Nag	21.11.87	11.2.88	31.5.88

Therefore, the remaining 4 (four) employees namely (1) Muni Kerketta, (2) Kasturi Baraik, (3) Rajkishor Kana and (4) Md. Suel Imam have not availed the benefits under the Voluntary Retirement Scheme. It is agreed by the management to allow these four employees to resume their duty with immediate effect on the same terms and conditions prevalent prior to their retirement. It is also agreed that the period of their absence from the date of their retirement i.e. 18.2.1988 till the date they resume duty will be treated as Leave without pay. It is further agreed there will be continuity of service for the purpose of calculation of Gratuity and other benefits. Both the parties agree not to claim any monetary relief in this connection.

It is further agreed by the Union that the dispute may be closed on the above terms of Settlement.

The Settlement has been done with concurrence of the Union as well as the Retired persons under dispute and the Settlement done by the Union will be binding on the workmen concerned.

On behalf of the management :

(M. C. NAIK)

Dy. General Manager
(Personnel)Bisra Stone Lime Co. Ltd.,
Birmtrapur.On behalf of the Union :
(Z. KINDO)Assistant Secretary
Gangpur Labour Union
Birmtrapur.

Dated : 4-5-1989.

पा. ना. 2439-शीघ्रांगक विवाद प्रधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसार में केन्द्रीय सरकार, राज्यकेन्द्र स्तर लाइ (सेल) क, वरमाला पायलन मार्गिन के प्रबंधतान्त्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, शुद्धिकरण में नियिट औद्योगिक विवाद में औद्योगिक प्रधिकरण, मुख्यमंत्री के पंचपट को प्रकाशित करते हैं, जो केन्द्रीय सरकार को 3-9-89 को प्राप्त हुआ था।

S.O. 2438.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers, in relation to the management of Barsua Iron Mines of Rourkela Steel Plant (SAIL) and their workmen, which was received by the Central Government on 5-9-89

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR
PRESENT :

Shri S. K. Misra, LLB, Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute Case No. 5 of 1989 (Central)
Bhubaneswar, the 22nd August, 1989

BETWEEN

The management of Barsua Iron Mines of Rourkela Steel Plant, SAIL, Rourkela First Party-management.

AND

Their workman, namely, Sri T. Parija, Dumper Operator, represented through the General Secretary, Orissa Minerals Workers Union, At/P.O. Barsua, Distt. Sundergarh Second Party-workman.

APPEARANCES :

Sri B. K. Mohapatra, Manager (Pl-IR)—for the First party-management.

Sri R. P. Singh, General Secretary of the Union—For the Second party-workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) and by their order No. L-26012/25/88-D.III (B) dated 6-2-89 have referred the following dispute for adjudication :—

"Whether the action of the management of Barsua Iron Mines of Rourkela Steel Plant (SAIL) in reducing the scale of pay of Sri T. Parija, Dumper Operator from Rs. 982 to Rs. 690 as a measure of penalty is justified. If not, what relief is the workman entitled to ?"

2. The memorandum of settlement duly signed by both parties on 18-8-89 is put-up. The representative of the second party-workman and the representative of the first party-management submitted that they have settled the dispute out of Court in the interest of industrial peace and harmony and prayed to pass an Award in terms of the settlement. Both parties admitted the terms of the settlement before the Lok Adalat held on 18-8-89 and also before this Tribunal. The settlement seems to be fair. Hence, I pass this Award in terms of the settlement. The memorandum of settlement do form part of the Award.

Dictated and corrected by me.

Dated : 22-8-89

Sd/-

S. K. MISRA, Presiding Officer.
[No. L-26012/25/88-D.III (B)]

FORM K

(See Rule 64)

Form for Memorandum of Settlement.

Name of the parties :

Representing employer(s)—N. K. Mohapatra.

Representing workmen—R. P. Singh, General Secretary, Orissa Mineral Workers Union.

SHORT RECITAL OF THE CASE

Whereas an Industrial Dispute I.D. Case No. 5/89 (C) is pending adjudication before the Industrial Tribunal

AND

Whereas the parties to the dispute intend disposal of this case on settlement as per terms set out below :

TERMS OF SETTLEMENT

- Both parties voluntarily agreed that stoppage of two increments inflicted as punishment on the workman Sri T. Parija will be altered to stoppage of one increment for the alleged misconduct.
- The second party workman will be entitled to payment of the amount equivalent to one increment which has been withheld.
- In view of the settlement, the punishment will not stand as a bar for his future promotion if any.
- The workman undertakes not to repeat such alleged misconduct in future.

Signature of Conciliation Officers.

Sd/-

Sri M. Mohapatra,
Dated : 18-8-1989.

Signature of the parties

Sri B. K. Mohapatra, Manager (PL-IR), RSP.

R. P. Singh, General Secy. of OMWU.

T. Parija, workman.

का. प्रा. 2439 — ओर्यांगिक विवाद प्रधिनियम, १९४७ (१९४७ का १४) का धारा १२ के अन्तर्गत में, फेन्डीय सरकार में, भांजा मिनरलस प्रॉलिंग को इंगानीजरन भैंगनीज एंड आयरन माइल्स इंगानीजरन के प्रदूषक तंत्र में सम्बद्ध नियोजकों और उनके कर्मकारों के बीच अनुबन्ध में निर्दिष्ट ओर्यांगिक विवाद में ओर्यांगिक अधिकार भुवनेश्वर के पचाट की प्रकाशित करती है जो फेन्डीय सरकार को ५-९-८० का प्राप्त हुआ था ।

S.O. 2439.—In pursuance of Section 7 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Inganjiharan Manganese and Iron Mines of M/s. Bhanja Minerals (P) Ltd., Inganjiharan and their workmen, which was received by the Central Government on 5-9-1989.

ANNEXURE INDUSTRIAL TRIBUNAL (ORISSA, BHUBANESWAR)

PRESENT :

Shri S. K. Misra, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.
Industrial Dispute Case No. 8 of 1986 (Central)
Bhubaneswar, the 21st July, 1989

BETWEEN

The Management of Inganjiharan Minerals and Mines of M/s. Bhanja Minerals (P) Ltd At/P.O. Inganjiharan, Via : Joda, distt. Keonjhar (Orissa).

First Party-Management.

AND

Their workmen represented through the General Secretary North Orissa Workers' Union—Second Party-workmen.

APPEARANCES :

Sri R. Mishra, Agent of M/s. Bhanj Minerals (P) Ltd.—
For the first party-management.

Sri B. S. Pati, General Secretary, North Orissa Workers' Union—for the Second party-workmen.

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) and by their order No. L-26011/14/85-D.III (B) dated 12th August, 1986 have referred the following dispute for adjudication :—

"Whether the action of the management of Inganjiharan Minerals and Iron Mines of M/s. Bhanja Minerals (P) Limited, At/P.O. Inganjiharam, Via : Joda, Dist. Keonjhar in removing the following workmen with effect from 1-2-85 is justified ? If not, to what relief are the workmen entitled ?"

- Smt. Surubali Naik
- Smt. Kamali Naik
- Smt. Nirimakhi Naik
- Smt. Tara Naik
- Smt. Ulati Naik
- Smt. Jaina Naik
- Shreecar Naik
- Sri Dhaneswar Oram

9. Bhaban Naik
10. Sri Panchu Naik
11. Kudra Oram
12. Smt. Sabetri Naik
13. Smt. Jarti Appat
14. Sri Laxmidhar Naik
15. Smt. Gahami Naik and
16. Smt. Jani Naik.

2. The memorandum of settlement duly signed by both parties on 4-5-89 and the petition seeking disposal of the reference on settlement dated 11-7-89 are put up. The representative of the second party-workmen and the representative of the first party-management submitted that they have settled the dispute out of Court in the interest of industrial peace and harmony and prayed to pass an award in terms of the settlement. Both the parties admitted the terms of the settlement before the Lok Adalat held on 1-7-89 and also before this Tribunal. The settlement seems to be fair. Hence, I pass this Award in terms of the settlement. The memorandum of settlement do form part of the Award.

Sd/-
S. K. MISRA, Presiding Officer
[No. L-26011/14/85-D.III (B)]

FORM H

(See Rule 58)

MEMORANDUM OF SETTLEMENT BETWEEN THE MANAGEMENT OF INGANJHARAN MANGANESE AND IRON MINES OF M/S. BHANJA MINERALS (P) LTD. AND THEIR WORKMEN REPRESENTED BY THE NORTH ORISSA WORKERS' UNION THIS THE 4TH DAY OF MAY, 1989

Name of the parties :

Representing the workmen :

1. Sri R. Mishra, Agent, M/s. Bhanja Minerals (P) Ltd.
2. Shri K. B. Sehgal, M/s. Bhanja Minerals (P) Ltd.

Representing the Employer :

1. Sri B. S. Pati, General Secretary, North Orissa Workers' Union.
2. Sri S. C. Malik, Secretary, North Orissa Workers' Union.

made part of the award

Sd/- S. K. Misra,
P. O. I. T.
Dated 21-7-89

SHORT RECITAL OF THE CASE

The General Secretary, North Orissa Workers' Union raised the Industrial Dispute over illegal removal from service of 16 workmen vide letter No. BL/MN/BMP/8(2)/52 dated 25th February, 1985 before the Asst. Labour Commissioner (C), Rourkela. The Conciliation proceeding was failed and the Central Government refer the dispute for adjudication vide Notification No. L-26011/14/85-D.III (B) dated 12th, August, 1986. The case is registered Industrial Dispute case No. 8/86 (C) in the Court of the Presiding Officer Industrial Tribunal, Orissa, Bhubaneswar. During the pendency of the case in the court, the parties discussed the issue time to time and finally decided to settle the I. D. case No. 8/86 (C) on the following terms and condition.

TERMS OF SETTLEMENT

1. It is agreed by the employer to take back all the 16 workmen in their service on and from 5th May, 1989.
2. It is agreed by the management to pay a lump sum of Rs. 500 (rupees five hundred) only in lieu of wages for the period of dispute till the date of joining i.e. 45-89, those who will join duty.
3. It is agreed between the parties that the workman who will not join his duty latest by 15th May, 1989 his case for joining duty will not be considered.

4. That in view of the above agreed compromise settlement between the parties, the impugned dispute has been fully and finally settled.
5. It is agreed that this memorandum of settlement will be filed in the Court of the Presiding Officer Industrial Tribunal, Orissa Bhubaneswar with a prayer to pass award on the terms of settlement.

Representing the employer :

Sd/- (R. Mishra)
Sd/- (K. B. Sehgal)

Representing the workmen :

Sd/- (B. S. Pati)
Sd/- (S. C. Naik)

Witnesses :

1. Sd/- Illegible
2. Sd/- Illegible

Dated the 4th May, 1989

का.पा. 2440:—ओर्डिनेशन विवाद प्रधिनियम, 1947 (1947 का 14) की घारा 17 के अनुसरण में, केंद्रीय सरकार राउरकेला स्टील प्लाट के प्रबन्धतान के सम्बद्ध नियोजकों और उनके कर्मकारों के मीम अनुबंध में निविष्ट ओर्डिनेशन विवाद में ओर्डिनेशन अधिकरण भूदेश्वर के पंचपट को प्रकाशित करती है, जो केंद्रीय सरकार को 5-8-89 को प्राप्त हुआ था।

S.O. 2440.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Rourkela Steel Plant and their workmen, which was received by the Central Government on 5-8-1989.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR
PRESENT :

Shri S. K. Misra, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute Case No. 6 of 1976 (Central)
Bhubaneswar, the 31st July, 1989

BETWEEN

The management of Rourkela Steel Plant of M/s. Hindustan Steel Limited First Party—management.

AND
Their workmen Second Party—workmen.

APPEARANCES :

Shri B. K. Mohapatra, Manager (PL-IR)—For the First Party—management.

Shri A. C. Das, Secretary of United Mines Mazdoor Union—For the Second party-workmen.

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred upon them by Section 7-A, and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), and by their order dated 22nd September, 1976 have referred the following dispute for adjudication by this Tribunal :—

“Whether the action of the management of Rourkela Steel Plant of M/s. Hindustan Steel Limited in

ANNEXURE-I

That both parties agree that the punishments already awarded in respect of the concerned workmen will be substituted by the punishments as given below and the other terms and conditions as contained in the punishment orders will remain unaltered. That neither party will have any other or further claim against each other.

Name of the concerned workmen with punishment order & date	Relevant portion of the order in existence	To be substituted by	Lump sum amount to be paid towards arrears on recast of pay
1	2	3	4
S/Shri		Censure.	Rs.
1. N. Appa Rao Order No. OMQ-PL (129) 11295-300 Dt. 9-7-75.	I have therefore decided to reduce your pay by one stage in the time scale of pay and accordingly you are hereby placed at the stage of Rs. 510/- in the scale of Rs. 330-15-510/- with immediate effect. You will, however, get your next ad hoc increment on 1st July, 1976 as due.	(Ad hoc increment due on 1-7-76 is payable)	180.00
2. S.K. Dey Order No. OMQ-PL-D(141)/14236-41 dt. 26-5-75.	Therefore, I have decided that you should be brought down to a lower stage in the time scale as a disciplinary measure. Accordingly, you are hereby placed at the lower stage of Rs. 274/- in your present scale of pay of Rs. 230-4-254-5-284/- with immediate effect retaining your date of increment as at present. Recurrence of any misconduct on your part in future will be viewed seriously.	Censure	913.50
3. A.K. Choudhury Order No. OMQ-PL-C(39)/14236-41 dt. 18-8-75.	Since the charges proved against you are serious in nature, your next two increments due to you on 1st July, 1976 & 1-7-77 are hereby stopped with cumulative effect.	One increment due on 1-7-76 stopped without cumulative effect.	657.00
4. K.S. Nair, Order No. PL-OMQN (128) dt. 23-7-75.	Since the charges proved against you are serious in nature, your next increment due on 1-1-76 is hereby stopped for three years with cumulative effect.	One increment due on 1-1-76 stopped without cumulative effect.	5715.00
5. G.S. Tandon, Order No. OMQ-PL-8(363)/7153-58 dt. 5-5-75.	Therefore your annual increment which will be due on 1-7-75 is hereby stopped for three years with cumulative effect.	One increment due on 1-7-75 stopped without cumulative effect.	7149.00

Sd/- (Illegible)
Dt. 10-6-89.

Sd/- (Illegible)
Dt. 10-6-89

मही दिल्ली, 5 सितम्बर, 1988

का.आ. 2441:—ओर्डोरिंग विवाद अधिनियम, 1947 (1947 का 14) की घारा 17 के अनुसार में, केन्द्रीय सरकार व मैसर्जे इंस्ट्रन्यूलॉरिलस लिं. को मियानी कॉलियरी के प्रबन्धनतंत्र से संबद्ध नियोजकों और उनके कर्मकारों के बीच, प्रत्यक्ष में निविल ओर्डोरिंग विवाद में केन्द्रीय सरकार ओर्डोरिंग अधिकारण कलकत्ता, के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-8-89 को प्राप्त हुआ था।

New Delhi, the 5th September, 1988

S.O. 2441.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Methani Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 31-8-89.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA**

Reference No. 81 of 1988

PARTIES :

Employers in relation to the management of Methani Colliery of M/s. Eastern Coalfields Limited.

AND

Their Workmen

PRESENT :

Mr. Justice Sukumar Chakravarty—Presiding Officer.

APPEARANCES :

On behalf of employer—Mr. B. N. Lala, Advocate.

On behalf of Workmen—None.

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(126)/86-D.IV(B) dated 9th June 1987, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Management of Methani Colliery of M/s. E.C. Ltd., in not correcting the age of Shri Hem Chandra Roy, Electrician as 13.5.45 is justified? If not, to what relief the workman is entitled?"

2. When the case is called out today, Mr. B. N. Lala, Advocate appears for the Management and files a Joint Petition of Compromise, duly signed by the parties. He prays for an Award in terms of the Joint Petition of Compromise. Considered the said Joint Petition of Compromise as well as the submission of Mr. Lala. The terms of the Joint Petition of Compromise appear to be fair, reasonable and in the interest of the parties. I therefore, accept the same and pass an 'Award' in terms of the said Joint Petition of Compromise which do form part of this Award as Annexure—'A'.

This is my Award

Dated, Calcutta,

The 23rd August, 1989.

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. L-19012(126)/86-D.IV.B]

ANNEXURE 'A'

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

In the matter of Reference No. 81 of 1988

PARTIES :

Employers in relation to the Management of Methani Colliery of M/s. Eastern Coalfields Limited.

AND

Their Workmen

Joint Petition of Compromise :

The humble petition of both the parties herein concerned most respectfully sheweth :

1. That the above matter is pending before the Hon'ble Tribunal for adjudication.
2. That the parties herein concerned discussed the instant matter mutually with a view to coming to amicable compromise and the parties have settled the instant matter on the following terms :
 - (a) That the employers agree that the workman here concerned namely Shri Hem Chandra Roy will be given the opportunity to appear before the Area Age Determination Committee constituted in accordance with the agreed decision of the parties arrived at the joint Bipartite Committee for the Coal Mining Industry for assessment/determination of age.
 - (b) That both the parties agree that the age of the workman as assessed by the Age Determination Committee in terms of paragraph (a) above shall be binding on both the parties and the record of age of the concerned workman will be corrected accordingly in the record of the Form-B Register as well as the Identity Card.
 - (c) That by this settlement the instant matter and any matter arising out of the instant matter stands fully finally resolved and that this settlement will be effective as on the date the Hon'ble Tribunal accepts the instant settlement.
3. That both the parties pray that the Hon'ble Tribunal may be pleased to accept the instant settlement as fair and proper and may be further pleased to pass an award in terms of the settlement. And for this act of kindness both the parties as in duty bound, shall ever pray.

Sd./- (Hem Ch. Roy)
Dated this the 26th day of
December 1988.

Sd./- (Mirshataque Alam Ansari)
AGENT

For and on behalf of
the employers.

Sd./- (Illegible)
General Secy. of
the Union.

For and on behalf of the Workman.

का.आ. 2442:—ओर्डोरिंग विवाद अधिनियम, 1947 (1947 का 14) की घारा 17 के अनुसार में, केन्द्रीय सरकार व मार्गीय आषनियम के प्रबन्धनतंत्र से संबद्ध नियोजकों और उनके कर्मकारों के बीच, प्रत्यक्ष में निविल ओर्डोरिंग विवाद में केन्द्रीय सरकार ओर्डोरिंग अधिकारण, कामपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-9-89 को प्राप्त हुआ था।

S.O.2442.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on 1-9-89.

BEFORE SHRI ARJAN DEV PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

KANPUR

Industrial Dispute No. 93 of 1988
In the matter of dispute between :

Shri Nain Ram
S/o Sh. Faqir Ram Damuadhunga
Jawahar Jyoti
P.O. Kathgodam
District Nainital.

AND

The District Manager,
Food Corporation of India,
7/47 Bhotipareo Haldwani
Nainital.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-42012/120/87-D.II(B) dated 19-7-88 has referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Food Corporation of India in terminating the services of Shri Nain Ram s/o Sh. Faqir Ram waterman w.e.f. September, 1986, is justified? If not, to what relief the concerned workman is entitled to and from what date ?

2. The workman's case in short is that he was appointed by the District Manager, Food Corporation of India, in April, 1982, against a permanent vacancy and he had worked till August, 1986, as per details shown in the statement annexed to the claim statement (Ann. A). From September, 1986, his services were terminated illegally without complying with section 25F and in violation of provisions of section 25G I.D. Act and Articles 16, 19 and 21 of the Constitution of India and F.C.I. Staff Regulations 1973.

3. His services were terminated at a time when about two dozens juniors to the workman were retained in service. After the termination of his services the F.C.I. which is an expanding organisation has opened new offices and in view of the provisions of section 25H, I.D. Act, he should have been appointed against. He has, therefore, prayed that he be reinstated in service with full back wages and continuity of service. He has also prayed that he should be ordered to be regularised in permanent service.

4. In defence the management plead that they have settled the dispute at their own level and have reinstated the workman on 31-10-87. The workman has already given an unconditional undertaking that he will not claim any back wages. He has further stated that there no longer exists any dispute between him and the management. He has informed about it to the Ministry of Labour, Government of India, and has requested to drop the proceedings. Even the management vide their letter dt. 20-1-88, has requested the Under Secy. Government of India, Ministry of Food and Civil Supplies, New Delhi, to approach the appropriate authority for closing the case. In the circumstances no industrial dispute now exists between the management and the workman.

5. In his rejoinder, the workman has alleged that he has not entered into any legal agreement with the management. The management have not paid him back wages nor have regularised him in service.

6. In support of his case, the workman has filed his own affidavit and a few documents and on the other hand, the management have filed affidavit of Shri Mahboob Ali, District Manager, Food Corporation of India, Haldwani, Distt. Nainital and a few documents. After the admission of most of the documents by the authorised representative for the workman, the management have not produced Shri Mahboob Ali, in the witness box.

7. Ext. W-1, is the copy of application dt. 25-6-87, moved by the workman before the ALC(C), Dehradun. In his application he stated that in discussion held on 24-7-87, at Haldwani, the District Manager, F.C.I. Haldwani, had informed him that the Regional Office, Food Corporation of

India, Lucknow, vide their letter had directed the then District Manager, F.C.I. Haldwani to regularise the services of the workman and accordingly the District Manager, F.C.I. Haldwani had advised him to withdraw the dispute pending before him ALC(C). After stating these facts he gave the undertaking before the ALC(C) Dehradun, to withdraw the dispute raised by him provided his services were regularised and wages from January 1987 onwards paid to him.

8. Ext. M-1, is the photostat copy of letter dt. 29/30-6-87 written by the workman to the District Manager, F.C.I. Haldwani. The copy of the letter was also endorsed to ALC(C) Dehradun. In his letter the workman has stated that since the District Manager, had given him the assurance that in case he withdrew his case pending before ALC(C) Dehradun he would be re-engaged and that he would write to the Regional Office for regularisation of his services, he withdrew his case and would not demand back wages.

9. Ext. M-2 is the copy of letter dt. 31-10-87, from the workman to the Labour Secretary, Ministry of Labour, Govt. of India, New Delhi, in which he has written that the District Manager had re-engaged him as waterman on daily wages w.e.f. 31-10-87, vide copy of office order, enclosed and was ready to forward his case to the Regional Office for regularisation of his service. In this letter he also made a reference of his earlier letter dt. 30-6-87, copy of which is Ext. M-1. In the letter he reiterated the fact he would not claim any wages for which the case had been referred to him (Labour Secretary) by ALC(C) Dehradun. In the end he stated that he withdrew his case pending with the Labour Ministry and there existed no dispute between him and the District Manager, F.C.I. Haldwani. He, therefore, prayed that the case be closed as mutually settled.

10. Ext. M-3, is the copy of Office Order dt. 31-10-87, which was enclosed with the above letter of the workman. The copy of office order shows that the workman was re-engaged as waterman on daily wages w.e.f. 31-10-87 till further orders from the Regional Office, Food Corporation of India, Lucknow. From office order, it appears that the copy of it was marked to the Secretary Ministry of Labour, New Delhi and also to the ALC(C) Central, Dehradun.

11. The question which arises is whether in view of documents copies of which are Exts. M-1 to M-3, there exists any longer an industrial dispute between the workman and the management of Food Corporation of India.

12. Shri O. P. Methur, the authorised representative for the workman has argued that since despite these documents, the Labour Ministry has made the reference to this Tribunal vide reference order dt. 19-7-88, the dispute would be deemed to have not ended as yet. On the other hand, it has been argued by Shri R. L. Gupta, the authorised representative for the management that the making of reference does not make any difference. In view of the specific statement of the workman that there existed no longer any dispute between him and the management and his specific prayer to close the case, the situation will not change with the making of the reference by the Central Government, Ministry of Labour. To him it appears that while making reference somehow or the other the above documents escaped the notice of the Desk Officer. I have given my anxious consideration to the contention of both the sides and am of the view that the reference order made by the Central Government, Ministry of Labour, is misconceived. When the workman himself stated that there no longer existed any dispute between the parties on account of the settlement arrived at between them, the question of making of a reference and keeping the dispute alive does not arise.

13. Hence, I hold that the reference order dt. 19-7-88, made by the Central Government, Ministry of Labour, to this Tribunal is misconceived. The parties have already settled the dispute between themselves and there no longer exists any dispute between the parties.

14. The reference is answered accordingly.

21-8-89.

ARJAN DEV, Presiding Officer
[No. L-42012/120/87-D.II.B/IR(C.II)]

का. ना. 2443.—ओर्डोरिंग विवाद प्रधिनियम, 1947 (1947 का 14) की घारा 17 के अनुसरण में, केन्द्रीय सरकार व भारतीय खाद्य निगम, लखनऊ के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट और्डोरिंग विवाद में केन्द्रीय सरकार और्डोरिंग प्रशिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-9-89 को प्राप्त हुआ था।

S.O. 2443.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Food Corporation of India, Lucknow and their workmen, which was received by the Central Government on 1-9-89.

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 73 of 1988

In the matter of dispute between :

1. The President, Bhartiya Khadya Nigam Mazdoor Sangh, 1-Abdul Aziz Lane, Lucknow.

AND

2. The District Manager, Food Corporation of India, 29-B N. Road, Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. L-42012/40/87-D.II(B) dated 29-4-88 has referred the following dispute for adjudication to this Tribunal.

Whether the action of the management of Food Corporation of India, Lucknow in terminating Smt Lakhpati Devi W/o I. Mangal Ram from service w.e.f. 31-12-84 is legal/justified? If not, to what relief the workman concerned is entitled and from what date?

In this case 27-2-89 was fixed for filing of the written statement on behalf of the management, but instead of filing of written statement on the said date, parties filed a settlement duly signed by the District Manager and workman herself. Since the persons who have signed the settlement on behalf of the management were absent, the case was ordered to be put up on 10-3-89 at Court Lucknow, for verification of the settlement. Again on 10-3-89, none was present from the side of the management, so 25-4-89 was fixed for verification. On 25-4-89 Shri Shakeel erstwhile President of Bhartiya Khadya Nigam Mazdoor Sangh and Shri S. K. Jaiswal, Secretary of the said Sangh, were present. Shri Jaiswal, Secretary of the said Sangh objected to the settlement on the ground that since the cause of the workman has been espoused by the Sangh, the workman has no right under the Act to settle the dispute outside the court with the management. On 15-6-89, the tribunal by means of its order passed on the same day, ordered the Secretary of the said Sangh to show any law or rule under which the Sangh has right to proceed with the case, when the workman, whose case has been espoused by the Sangh, has settled the dispute with the management outside the court, and for this the said Secretary was allowed time till 21-7-89.

3. On 21-7-89, one Shri Om Prakash Srivastava, Tensur, of the Sangh appeared and none was present for the management. Nothing was submitted from the side of the Sangh in the light of earlier order dt. 15-6-89.

4. In the circumstances of the case, the matter having been settled between the parties concerned the tribunal is left

with no choice except to give award in terms of the settlement which are as under :

- (a) That the workman will be engaged on same status which she was having at the time of disengagement.
- (b) Intervening period (between date of disengagement and re-engagement) will be regularised for the purpose of terminal benefits but no wages shall be paid for this period.
- (c) This will be full and final settlement of the dispute.

5. Thus the reference is answered in terms of the settlement.

31-7-89.

ARJAN DEV, Presiding Officer

[No. L-42012(40)/87-D.II.B/IR(C.II)]

नई दिल्ली, 7 सितम्बर, 1989

का. ना. 2444.—ओर्डोरिंग विवाद प्रधिनियम, 1947 (1947 का 14) की घारा 17 के अनुसरण में, मैसर्ज वैस्टन कोल फैलोज लिं. 1 रेजर कोलियरो के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट और्डोरिंग विवाद में केन्द्रीय सरकार और्डोरिंग प्रशिकरण, म. 2 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-9-89 को प्राप्त हुआ था।

New Delhi, the 7th September, 1989

S.O. 2444.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Coalfields Ltd, Sub-Area No. 1 Rejir Colliery and their workmen, which was received by the Central Government on 6-9-89.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESIDENT:

Shri P. D. Apshankar, Presiding Officer.

Reference No: CGIT-2/67 of 1985

PARTIES:

Employers in relation to the management of Western Coalfields Limited.

AND

Their Workmen.

APPARANCES:

For the Employers : Shri P. S. Nair, Advocate.

For the Workmen : Shri A. S. Bhagat, Counsel.

INDUSTRY : Coal Mines.

STATE : Maharashtra.

Bombay, dated the 18th August, 1989

AWARD

By Central Government by their Order No. I-22012/73/D.V dated 14-9-1985 have referred the following industrial

dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act :—

"Whether the management of M/s. Western Coalfields Limited in Sub-Area No. 1, Rojar Colliery P.O. Shivaji Nagar, District Chandrapur is justified in termination the services of the workman Shri Vijay Bahadur Sumer w.e.f. 12-1-1984? If not, what relief the workman is entitled to?"

2. The case of the workman Shri Vijay Bahadur Sumer as disclosed from the statement of claim (Ex. 2/W) filed by the General Secretary, Rashtriya Vidarbha Coal Employees Union, Chandrapur, on his behalf, in short, is thus :—

(i) The said workman was employed in the service of the Western Coalfields Limited, Chandrapur on 14th October, 1972. He held the post of skilled job of Explosive Carrier during the period from 14-10-72 to 21-7-1979. His services were unlawfully terminated on 21-7-1979. As he was poor and illiterate, he could not seek legal assistance from any expert. He himself waited for his reinstatement in service. He was appointed as a general Mazdoor on probation for one year by the order dated 11-6-1983, at Rajur Colliery. Even though the terms of fresh appointment were less favourable to him, and even though his continuity of service of the previous year was ignored, he accepted the fresh appointment as he was in need of service. He was not provided with Colliery accommodation during the period from 14-6-1983 to 12-1-1984, and hence he was to live alone away from his family members. He fell sick in January 1984. He was again transferred and directed to report to Shri D. Uradhyay, Sr. Overman for working as Packing Mazdoor at underground in general shift from 6-1-1984.

(ii) On 9-1-1984 the workman approached the Project Officer, Rajur Colliery and requested for an advance of Rs. 200 to meet the medical expenses. However his request was not granted. Thereafter, due to ill health condition, he preferred to stay near the dispensary building close to the Cash Office of the Colliery. However, he was forcibly removed from that area on 10-1-1984. He (Project Officer) thereafter reported to the superior officer that the workman was staying there with some ulterior motive as an amount of Rs. 10 lakhs was kept in the store in the cash office building (and probably the workman wanted to commit theft of that amount). Thereafter the workman's services were terminated by the order dated 12-1-1984 by the management, on the ground that his services were found unsatisfactory during the period of probation.

3. According to the said Union of the workman, this action on the part of the management in terminating the services of the workman, is not just and proper. His past service of seven years was ignored by the management. The said termination was not as per the rules and regulations of the Colliery. The said termination does not comply with the clause 13 of the Model Standing Orders, as two weeks' notice was not given to him, nor the payment of wages in lieu of notice was given to him before his services were terminated. Further, his retrenchment is contrary to the provisions of the Industrial Disputes Act. He was not given one month's notice, nor was he paid the wages in lieu of notice. He had put in 190 days continuous service. Therefore the said termination is ab initio void. The Union therefore prayed that the management be directed to reinstate the workman with full back wages, and continuity of service.

4. The Sub-Area Manager, No. 1 of the Western Coalfields Limited by the written statement (Ex. 3/M) resisted the claim of the Union and in substance contended thus :—

The workman Shri Vijay Bahadur Sumer was appointed as an Explosive Carrier. His services were terminated by an order dated 11-6-1983. He was firstly appointed as a general Mazdoor. He was appointed on probation for a period of one year and it was stated in the appointment order

that in case his services were not to be found satisfactory, his services would be terminated. It was also stated that his services were to be terminated for the said reason, if any, without notice or compensation and without assigning any reason. The appointment letter under which he was appointed as a probationer, was fully understood by the workman, and he accepted the terms and conditions mentioned in that letter. However, during the period of probation, he did not behave properly and his work was not found satisfactory.

5. The management further contended thus :—

On 9-1-1984 a sum of about Rs. 10 lakhs was brought to the Colliery from the Bank for payment of wages to the workmen on the next day. The amount was kept in the premises of the Colliery. On that day the workman Shri Vijay Bahadur Sumer came to the premises of the Colliery with luggage and bag and forcibly occupied the office premises. The Security Guard asked the workman to vacate the premises but he refused to go away and continued to stay there. From his behaviour, his intention and motive appear to be not bona fide but malafide. He also created utter confusion and chaos in the premises. The police came to the place for the help of the management and the said workman was removed from the said premises. As the work of the workman was not found satisfactory and because of the above said highly objectionable behaviour, his services were terminated by the order dated 12-1-84. In the circumstances of the case the management do not have any confidence in the said workman, and he is not entitled to reinstatement in service. The present dispute has been raised by the workman much late, and the reference has been made 1-1/2 years after the workman's service were terminated.

6. The management filed its rejoinder (Ex. 5/M) to the Statement of Claim filed by the Union raising the following additional contentions :—

Since the workman was appointed as an Explosive Carrier, he used to create disturbance in the office and used to abuse and assault the officers. A report was made by the Manager, Rayatwari Colliery on 7-4-1979 that he was assaulted and threatened by the workman on 5-4-1979 and 7-4-1979. He was then chargesheeted for the said assault. A departmental enquiry was held against him and he was found guilty of the misconduct alleged against him. Thereafter he was dismissed from service by the order dated 21-6-1979. Thereafter on 15-3-1983 the workman Shri Vijay Bahadur submitted an application for fresh employment, rendering unconditional apology. The management took an extremely sympathetic view and appointed him as a fresh employee by the order dated 11-6-1983. His earlier termination of service was never challenged by him or by any Union. He is not a poor or illiterate person. He was carrying a roaring private business, and he is carrying on the same even now. The present termination of service of the workman did not amount to retrenchment. Therefore, the provisions of Section 25F of the Industrial Disputes Act do not apply in the present case. His services were terminated during the period of probation because of his unsatisfactory work and that the termination is not bad in law. Even after his termination of service, he is indulging in all sorts of illegal activities in the Colliery. He is creating disturbance in the working of the Colliery and he has abused and threatened its officers. He has become a regular nuisance and disturbance to the industrial peace and discipline. The management, therefore prayed for the dismissal of the claim of the Union.

7. The necessary Issues were framed by my predecessor at Ex. 4. Thereafter, the management started leading evidence. Three witnesses were examined on their behalf regarding the merits of the case.

8. Thereafter, on 9-8-1988 an application (Ex. 61) was placed on record on behalf of the management. That application in substance stated that the parties had already arrived

at a mutual settlement and consent Award be passed in terms of that settlement. The management produced the original settlement at Ex. 62. The terms of that settlement are thus :—

1. Shri Vijay Bahadur will tender an unqualified apology and assurance for better conduct in future in writing.
2. Shri Vijay Bahadur will be given fresh regular re-employment as General Mazdoor, Cat. I within a month of an Award of Tribunal.
3. He will be re-employed at Bellora Incline of Sub-Area II.
4. The Union will give up all their claims including claim for back wages, re-instatement and all other benefits and accept fresh employment in full and final settlement of all their benefits and accept fresh final settlement of all their benefits and accept fresh Shri Vijay Bahadur.
5. The Union will not claim any other relief and treat this settlement as full and final settlement of all their claims.
6. The parties shall submit the copies of the settlement to the Tribunal and pray for an award in terms of the settlement."

8. This settlement was arrived at on 13-8-1986. I may observe that after three witnesses were examined by learned predecessor on 19-2-1986 he retired from service in April or May 1986. Thereafter this Tribunal was lying vacant without appointment of a regular Presiding Officer till May 1988. On 9-8-1988 when this Tribunal held its sitting at Nagpur, and when the management presented the above settlement along with the application (Ex. 61), the said workman Shri Vijay Bahadur made a statement that he was not prepared to accept that settlement. The Advocate for the workman also refused to accept that settlement. It was urged on behalf of the management that the said settlement was arrived at between the two parties without the knowledge and consent of the said workman. The workman and his Advocate refused to accept that settlement.

9. Thereafter the management examined two more witnesses on the point of validity and legality of the said settlement. The first witness is Shri R. Pandey (Ex. 58/M). The said settlement has been signed by Shri R. C. Pandey as General Secretary, Rashtriya Vidharba Coal Employees Union and Shri Balbir Singh, Personnel Manager of the management. The statement of claim of the workman is also signed by Shri R. C. Pandey. Shri Pandey, in substance stated in his evidence thus :—

He is the General Secretary of Rashtriya Vidharba Coal Employees Union since the last 15 years. They try to redress the grievances of the workmen. Shri Vijay Bahadur Sumer was and still is a member of that trade Union. That Union had raised an industrial dispute regarding the termination of services of the workman Shri Vijay Bahadur and the statement of claim was filed by that Union. The workman Shri Vijay Bahadur had authorised that Union to raise an industrial dispute before the Assistant Labour Commissioner (C), and also to pursue the matter before this Tribunal. Pending the reference, the management and the said Union had arrived at a settlement. The financial condition of the workman Shri Vijay Bahadur was very bad. The Union had earnestly requested the General Manager of the Colliery to sympathetically consider the poor condition of the workman and his family members and hence the General Manager consented for re-appointment of that workman. Thereafter the Union and the management had entered into the settlement. He put his signature on the settlement with the consent and knowledge of the workman Shri Vijay Bahadur, who was present there. The Union still accepts that settlement.

This witness was cross-examined by the Advocate for the workman. However, nothing has transpired therein to disbelieve him in any way. It is, therefore, very clear from the evidence of the General Secretary of the Union Shri R. C.

Pandey that the said settlement was arrived at with the knowledge and consent of the workman Shri Vijay Bahadur.

10. The other witness on behalf of the management on the point of validity of the settlement was Shri V. P. George (Ex. 59/M). In his evidence, in substance, he stated, "He was then working as a Welfare Officer at the Area Headquarters of Western Coalfields. The said settlement dated 13-8-1986 was signed in his presence by Shri Pandey on behalf of the Union, and Shri Balbir Singh on behalf of the management. The workman Shri Vijay Bahadur was also then present there." It is true that the signature of this witness Shri V. P. George is not appearing on that settlement, but because of the absence of any such signature on that settlement, his evidence, as above cannot be disbelieved. I fully believe the evidence of this witness i.e., the Welfare Officer Shri V. P. George, as above.

11. The workman Shri Vijay Bahadur also examined himself in support of his present contentions at Ex. 60/W. In his examination-in-chief, in substance, he stated thus : "He was a member of the Rashtriya Vidharba Coal Employees Union in 1983. After his services were terminated, he did not approach the management requesting for a settlement. He is not aware of any settlement dated 13-8-1986. He was not present at the time of the alleged settlement. At that time he was in the Hospital, as his wife had delivered a child on 9-8-1986 and she was discharged from the Hospital on 13-8-1986. After he learnt about the settlement, he protested against it, and sent letters of protest to the management and the Union and to the Asstt. Labour Commissioner. He did not, however, bring the A.D. receipt in that respect. He is not aware of the contents of the said settlement and he does not admit the contents thereof. He was taken back on job on 23-6-1987 and he is in service even now. However, he claims the back wages." By letter dated 9-8-1988 (Ex. 61) the management informed this Tribunal that the said settlement has already been implemented and the workman Shri Vijay Bahadur was again taken in service. As noted above, the workman also admitted this fact in his evidence

Ex. 56/M is the letter by the Sr. Personnel Officer, Ghugus Sub-Area addressed to the Supdt. of Mines, Nakoda Incline dated 22-6-1987. By this letter the Senior Personnel Officer had informed the Supdt. of Mines that a settlement had taken place in respect of Shri Vijay Bahadur, an ex-employee of Rajur Colliery, and in pursuance of that settlement the workman Shri Vijay Bahadur was allowed to join duty at Nakoda Incline. By the said letter the Sr. Personnel Officer asked the Supdt. of Mines to obtain written assurance from the workman for his good conduct in future and thereafter he be allowed to work in the colliery. Thereafter, we find the necessary letter from the workman Shri Vijay Bahadur at Ex. 57/M. It is dated 23-6-1986 (correct year is 1987). By this letter addressed to the Colliery management, the workman expressed his desire to work in the colliery and further assured that in future he will serve properly and will give no room for any complaint against him. Thus, in case the said settlement would have been arrived at without the knowledge and consent of the said workman, he would not have written the letter, as above, to the Colliery authorities. The alternative defence of the workman is that this letter was obtained from union under pressure and under misrepresentation. However, I am unable to accept even this contention. The said workman was without service for some years. It is quite likely, that he must have voluntarily accepted that settlement and that he was appointed as a fresh employee without back wages and without continuity of service. I, therefore, find that the workman Shri Vijay Bahadur voluntarily accepted the terms of settlement dated 13-8-1986 (Ex. 62) and gave in writing his undertaking to behave properly in future (Ex. 57/M).

12. In his cross-examination, the workman Shri Vijay Bahadur stated and admitted before this Tribunal thus :— "Prior to 1979 his services were terminated about eight times. He used to detect the real thieves, and hence his services used to be terminated. He is a member of the said Union since 1983. Shri R. C. Pandey is the General Secretary of the said Union. The above said Union raised the industrial dispute about his termination by the management before

the Assistant Labour Commissioner (C). Above said Shri R. C. Pandey used to attend before the A.L.C. in that respect. He had authorised that Union to represent his case before A.L.C. The Union had engaged an Advocate. He did not protest against the engagement of the Advocate." Thus, it is quite clear from his cross-examination that he had willingly authorised Shri R. C. Pandey, General Secretary of the said Union, to raise the necessary industrial dispute before the A.L.C. regarding his termination of service. He further stated in his cross-examination he had not asked the Union in question to enter into any settlement regarding reinstatement of his service with full back wages. This statement of the workman appears to me not acceptable, as he had already authorised the Union to pursue the matter regarding his alleged illegal termination of service. It is quite likely that he must have authorised the Union to enter into the necessary settlement in the matter. The workman further admitted in his cross-examination that at present he is in service. According to him, he was given to understand by the management that the decision of the Tribunal would be binding on both the parties, and on that understanding he was taken in service again. He admitted his signature on the said letter dated 23-6-1987 (Ex. 57/M) requesting the management to permit him to join duty and assuring his future good conduct. According to him, that letter was obtained from him under mis-representation. However, I am unable to believe this contention of the workman. In the result, taking into consideration all the circumstances of the case and the statement of workman and the evidence of two witnesses examined on behalf the management, I find that the said settlement dated 13-8-1986 was willingly arrived at between the parties as approved by the workmen Shri Vijay Bahadur. Therefore that settlement, even though now denied by the workman, will be binding upon him and the management. In case that settlement was not voluntarily arrived at, there was no need for the management to take back Shri Vijay Bahadur in service, when his services were terminated against and again in the past. The workman Shri Vijay Bahadur accepted that settlement, according to me, as he was to get service again with the management though he was to lose the back wages and continuity of service. In the result, the Award must be and is drawn in terms of the said terms of settlement dated 13-8-1986.

AWARD

Award is made in terms of settlement dated 13-8-1986. The parties to bear their own costs of this reference.

P. D. APSHANKAR, Presiding Officer.

[No. L-22012/73/84-D.V/IR(C.II)]

R. K. GUPTA, Desk Officer.

नई दिल्ली, 6 सितम्बर, 1989

का.पा. 2445.—ओर्डोरिंग विवाद अधिनियम, 1947 (1947 का 14) की घारा 17 के अनुसार में, केन्द्रीय सरकार, भारतीय स्टेट बैंक के प्रबन्धतान्त्र के संबद्ध नियोजकों और उनके कमेकार्यों के बीच, अनुबंध में निविष्ट ओर्डोरिंग विवाद में केन्द्रीय सरकार ओर्डोरिंग अधिकरण, व अम व्यायासय नं. 1 धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5 मित्तम्बर, 1989 को प्राप्त हुआ था।

New Delhi, the 6th September, 1989

S.O. 2445.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal-cum-Labour Court No. 1 Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 5-9-1989.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL NO. 1, DHANBAD

(In the matter of a reference under Section 10(1)(d) of the

Industrial Disputes Act, 1947)

Reference No. 12 of 1985

PARTIES :

Employers in relation to the management of State Bank of India.

AND

Their Workman

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—S/Sri G. Prasad and D. N. Prasad Advocates.

For the Workman—Sri J. D. Lal, Advocate.

STATE : Bihar.

INDUSTRY : Bank.

Dated, the 23rd August, 1989

AWARD

By Order No. 1-12012/13/85-D.II(A), dated the 22nd August, 1985, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of State Bank of India in terminating the services of Shri Ram Chandra Choudhury sub-staff Murliganj pay office (Medhepura) and not considering him for further employment while recruiting first hands is justified? If not, to what relief is the workman concerned entitled?"

2. The management of the State Bank of India submitted its first written statement on 27-2-87 which is a rejoinder to the written statement of the sponsoring union, State Bank of India Staff Association, Patna submitted on behalf of the concerned workman on 10-16-85. In the circumstances, at the outset the case of the sponsoring union is narrated hereinbelow with a view to making explicit the contentions of the management in the present reference case.

3. The case of the sponsoring union is that the present industrial dispute was raised before the A.L.C.(C), Patna, but the conciliation ended in a failure as the management of the State Bank of India (hereinafter referred to as Bank) was not agreeable to amicable settlement. Sri Ram Chandra Choudhury, the concerned workman was appointed by the Bank as temporary Guard-cum-messenger at its Murliganj Pay Office (presently a full-fledged Branch Office) with effect from 1-3-73. He also had worked in the same capacity for 24 days at Janakpur Road Branch (than a Pay Office under Darbhanga Branch) of the Bank. He had worked for 265 days as per Annexure-I from 1-3-73 to 31-1-74. He has got a certificate issued by the Bank disclosing a statement of duties done by him in which only 241 days has been mentioned. A copy of the certificate granted has been enclosed as Annexure-II. Anyway, he worked completely for 265 days as per Annexure-I, but his services were abruptly terminated with effect from 1-2-74 without assigning any reason and for no fault on his part. During the tenure of his service he had discharged his duties to the satisfaction of the authority concerned. The Bank has neither given him any notice nor did it pay amount to him for the notice period nor did it pay any retrenchment compensation as provided under Section 25-F of the Industrial Disputes Act. The Bank had appointed a number of fresh persons at different Branches

including Local Head Office, Regional Office, Patna, Muzaffarpur and Saharsaipur after termination of his services and no opportunity/preference was given to him. The Bank has not complied with the provisions of Section 25-G of the Industrial Disputes Act. A number of persons who were working during his tenure of service had been retained in service and some fresh hands also had been retained in service after his termination of service. Since he was in continuous service for more than 240 days within one calendar year, Section 25-F of the Industrial Disputes Act is attracted.

The sponsoring union has submitted that the termination of the services of the concerned workman is wrong and illegal under the Industrial Disputes Act as well as under Shops and Establishment Act and also as per judgements of the Hon'ble Supreme Court and different High Courts.

4. The management of State Bank of India in its first written statement has stated that the concerned workman was not appointed by the Bank as temporary guard-cum-messenger at its Murliganj Pay Office with effect from 1-3-73. The Bank has also disputed that he worked at Janakpur Road Branch, then a Pay Office under Darbhanga Branch of the Bank, in the same capacity for a period of 240 days. The Bank has further denied that he worked for 265 days in total from 1-3-73 to 31-1-74 and asserted that he worked only for 140 days as would be evident from the Annexure submitted and marked as Annexure-A. The certificate of service granted to him has no force in the eye of Law since the person issuing the certificate had no authority to issue such certificate. It has been alleged that the concerned workman, in collusion with the issuing authority, has tried to commit fraud upon the Bank and the Court. The Bank has asserted that as being a 'Badli staff' to be appointed as and when leave vacancies arise, the concerned workman cannot claim to be continued in the employment of the Bank. Since he has not worked for 240 days in a calendar year prior to his cessation of service, the provision of Section 25-F of the Industrial Disputes Act is not applicable. Notice for absorption of temporary employees was given to all the employees in terms of Circular Per. No. 77 of 1984 dated 17-5-84 and the concerned workman did not avail himself of the opportunity by registering his name before the appropriate authority and thereby deprived himself of the opportunity by his own conduct. He cannot now reagitate the same issue having himself acquiesced in it. Since work of the Bank cannot suffer some new persons have been recruited in accordance with the Regulation dated 17-5-84 and no discrimination has been made against the concerned workman. The provisions of Section 25(g) and 25(h) of the Industrial Disputes Act have got no manner of application in the present case. The services of the concerned workman were terminated in accordance with law. The provisions of Shops and Establishment Act has no application in the present case and the affects of the judgements of the Hon'ble Supreme Court and High Courts have been misconceived. The claim of the concerned workman is stale as it has been raised after the lapse of more than 14 years without any reasonable cause and therefore it deserves to be rejected.

5. In rejoinder to the written statement of the management the concerned workman has reiterated that he had completed 240 days of continuous service in the Bank. The State Bank of India (Murliganj Pay Office) by its letter dated 29-1-74 addressed to him had given statement of duties from March, 1973 to January, 1974 showing a total attendance of 241 days. This will amply clarify that he had completed more than 240 days' attendance in a calendar year.

6. The management of the State Bank of India submitted a supplementary written statement-cum-rejoinder to the written statement/rejoinder of the workman on 31-1-88. In this supplementary written statement-cum-rejoinder the Bank has stated that the order of reference envisages that an adjudication must be done within a period of three months and since that has not been done, this Tribunal has become functus officio. The written statement of the workman raising the dispute was served on the employer long after the expiry of 15 days as stipulated in the order of reference and hence the written statement should be considered as non est. The concerned workman was employed as a 'Badli' guard-cum-messenger in place of guard-cum-messengers who were either

absent due to sickness, leave or rest day. He was not in continuous employment for one year. He worked as a 'Badli' workman only 142 days in Madhepura Branch as mentioned hereinbelow :

May, 1973	— 19 days
June, 1973	— 12 days
July, 1973	— 13 days
August, 1973	— 20 days
Sept., 1973	— 15 days
Oct., 1973	— 22 days
Nov., 1973	— 25 days
Dec., 1973	— 14 days
January, 1974	— 2 days

He was not employed in any capacity whatsoever in March and April, 1973. Since he did not work for 240 days in a calendar year he was not entitled to retrenchment compensation as provided under Section 25-F of the Industrial Disputes Act. He had never worked in any capacity whatsoever in Janakpur Road Branch for 240 days as alleged by him. He was employed as a 'Badli' workman and his employment automatically came to an end as soon as the permanent workman resumed duty. A badli workman is really a casual workman without any right to be employed. The Bank has thousands of Branches and Offices which are separate industrial establishments and if a person worked for a day in a Branch and for a few days in other Branch as a temporary, casual or badli workman, the employment in two or more separate industrial establishments cannot be said to be continuous. Janakpur Road Branch and Murliganj Branch were separately registered under Bihar Shops and Establishment Act, 1953 and had separate registration. The service conditions of workmen working in Banks are governed by Sastri Award and Desai Award and notices/circulars issued from time to time under the provisions of the Industrial Disputes Act. No circular for employment/absorption of a badli workman has ever been issued by the Bank. The concerned workman in collusion with an official incharge of the Bank, Sri P. Jha who was not competent to issue certificate, obtained a false certificate by using unfair means fraudulently. By doing so, the concerned workman and the official incharge both have lost the confidence of the employer for further employment. The employers have initiated action against the Official in-charge for issuing false certificate which is still pending. The concerned workman never worked for 242 days continuously or intermittently also in Murliganj Pay Office or Janakpur Road Branch. Termination of employment of a Badli workman on the expiry of badli period does not amount to retrenchment. The claim of the concerned workman for reinstatement in service with back wages and other benefits is not justified.

7. The concerned workman submitted a supplementary written statement on 15-11-88 stating that certain relevant facts were omitted in the earlier written statement filed on his behalf and it is necessary to narrate those facts by supplementary written statement. He was appointed in the Bank in March, 1973 and continued to work till January, 1974 and during this period he had put in more than 240 days attendance. But all on a sudden his services were terminated in an illegal and malafide manner in January, 1974 without any notice and without any formal order of termination. Immediately after termination of his service in January, 1974, another person Sri Mohan Mishra by name was appointed as temporary guard and messenger in his place in February, 1974. Sri Mishra continued to work as temporary guard and messenger and he was ultimately absorbed permanently in Bank's services. He has since been promoted to the post of Clerk while working in Murliganj Pay Office and is now posted at Janakpur Road Branch of the Bank in the Distt. of Darbhanga. He has alleged that the appointment of Sri Mishra in his place immediately after termination of his services shows that termination of his services was not bona fide and was a colourable exercise of powers and hence the

action of the management in terminating his services is illegal and unjustified. He made several representations from time to time since his services were terminated, but no formal reply was given. He was assured verbally that his case had been referred to Head Office at Patna for permanent absorption and so he did not raise the industrial dispute earlier as he relied on this assurance. In terms of Circular No. 77 dated 17-5-84 he is entitled to be appointed under the provisions of Section 25-H of the Industrial Disputes Act, but the management did not give him any offer of appointment and took other retrenched watchmen who were juniors to him and appointed them in Madhopura Branch and other branches under Bhagalpur Regional Office which is the controlling office of all Branches of the State Bank falling under its jurisdiction including Madhopura Branch. He is a Matriculate and could be appointed in clerical post as well as in other suitable post. He as well as his union had written to the Bank management for registration of his name for appointment against permanent vacancies as per Circular No. 77 dated 17-5-84 but still the management did not offer him any employment. Murliganj Pay Office of the Bank was under Madhopura Branch of the Bank and under Bhagalpur Regional Office of the Bank at the relevant period during the period from 1973 to 1985. He was paid his salaries by Pay Order by Madhopura Branch of the Bank and also through vouchers at Murliganj Pay Office. This dual system of payment was resorted to distort the records in regard to number of days of duty performed by a temporary workman including him as there was a specific circular of the Bank not to employ any temporary workman for more than 90 days in a year or in order to create an artificial break in the service to get over the provisions of Section 25-F of the Industrial Disputes Act. Moreover, the attendance register maintained at Murliganj Pay Office will show actual number of days attendance put in by a temporary workman including him.

8. The Bank submitted its objection-cum-rejoinder to the supplementary written statement of the workman on 21-12-88. In the objection-cum-rejoinder the Bank has stated that there is no provision of filing a supplementary written statement and that the Tribunal, being a creation of statute cannot enlarge the ambit of the Act.

The Bank has stated by way of rejoinder that the facts enumerated in the supplementary written statement are irrelevant, unjustified, illegal and cannot be entertained at a belated stage. The Bank has reiterated that the concerned workman was employed as a 'Badli' workman in May, 1973 and worked for a total period of 142 days till 2-1-74. He was never employed nor did he ever work in March and April, 1973. He has not worked for 240 days or more in the Bank. The allegations that his services were terminated in January, 1974 is incorrect, baseless, unfounded, illegal and unjustified. Since he was a badli workman, his service automatically came to an end as soon as the permanent workman joined his duty. Mohan Mishra was a badli workman and the contentions made by the concerned workman in paragraph 3 of his supplementary written statement are neither correct nor relevant. The Bank has denied and disputed the contentions of the concerned workman as made in paragraphs 4 and 5 of his supplementary written statement. No assurance was given to him for absorption in service and all the documents have been manufactured under some expert opinion after Sri J. P. Singh, senior Advocate who was representing the union, left and a new Advocate was engaged by the concerned workman at his own initiative. Circular No. 77 dated 17-5-84 is neither attracted nor relevant and that such circular has no retrospective effect and the provisions of Section 25-H of the Industrial Disputes Act are not attracted in the instant case. Elaborate procedure has been laid down by the Bank for fresh employment of any person, either a retrenched employee or otherwise. Applications are invited by advertisements or through local Employment Exchange and the applicants are required to appear at a written test and if any applicant comes out successful, he is called for an oral interview. Then again if he succeeds in oral interview he is medically examined and his credentials are checked and then he is employed on probation. The Bank is not a grocery shop. It cannot afford to employ a workman unless he undergoes such acid test. The concerned workman did not undergo such acid test; he did not apply nor was his name sponsored by

the Employment Exchange. He is not a Matriculate; he never produced his Matriculation certificate before the employer. According to the Bank's rule a Matriculate cannot be appointed as a subordinate staff and the concerned workman concealed this material fact.

9. The Bank has examined three witnesses, namely MW-1 Sri Prabhakar Jha presently posted as an Officer in Sakri Branch of the Bank, MW-2 Sri Ambika Charan Mukherjee posted to Purnea Branch of the Bank from 14-11-69 to March, 1978 and MW-2 Sri D. N. Prasad, presently posted as Staff Cell Incharge, Region-II of the Bank and laid in evidence a mass of documents which have been marked Exts. M-1 to M-16 in order to justify its action. On the other hand, the concerned workman examined himself only and laid in evidence a sheaf of documents which have been marked Exts. W-1 to W-10.

10. The management has disclosed in para 18 of its supplementary written statement submitted on 13-1-88 that the service conditions of the workmen, (evidently employed in different Banks) are governed by the Sastry Award, Desai Award and the notices/circulars issued from time to time by the State Bank of India, and the provisions of the Industrial Disputes Act and the Industrial Employment (Standing Orders) Act. MW-1 Sri Prabhakar Jha who was posted as Official-in-charge in Murliganj Pay Office from February, 1973 to February, 1974 and presently posted as Officer, Sakri Branch of the State Bank of India has disclosed in his evidence that the service conditions of Bank employees including Badli workmen are governed by Sastry Award, Desai Award and bipartite settlements arrived at from time to time and that there is no separate standing order for Bank employees. This being the position, it can be concluded that the service conditions of Bank employees are governed by Sastry Award, Desai Award and bipartite settlements arrived at from time to time.

11. The case of the management as disclosed, in the written statement, supplementary written statement and rejoinder to the supplementary written statement of the concerned workman, is that the concerned workman was engaged as a 'badli' workman-Badli-guard-cum-messenger. The case of the concerned workman is that he was appointed by the State Bank as temporary guard-cum-messenger at its Murliganj Pay Office, now a full-fledged branch.

Paragraph 508 of Sastry Award has made classification of Bank employees as follows:—

- (a) permanent employees;
- (b) probationers;
- (c) temporary employees; and
- (d) part-time employees

and these expressions have the following meanings:

- (a) "permanent employee" means an employee who has been appointed as such by the bank,
- (b) "probationer" means an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service,
- (c) "temporary employee" means an employee who has been appointed for a limited period for work which is of an essentially temporary nature, or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature.
- (d) "part-time employee" means an employee who does not or is not required to work for the full period for which an employee is ordinarily required to work and who is paid on the basis that he is or may be engaged in doing work elsewhere.

Desai Award and bipartite settlements have retained the classification of Sastry Award. So it is evident that there exists no provision for employment/appointment of a 'badli'

workman as the management has done in the present case. The management has no right to stick their own level on the classification of workmen outside the frame-work of awards and bipartite settlements. On the other hand, the concerned workman has stated in the written statement that he was appointed as temporary guard-cum-messenger at Murliganj Pay Office. This classification of his having been appointed as temporary guard-cum-messenger is in agreement with the classifications done in awards and bipartite settlements. Hence, I have no hesitation to conclude that the concerned workman was appointed as a temporary guard-cum-messenger at Murliganj Pay Office and not as 'badli' guard-cum-messenger as contrived by the management.

12. The management has failed to disclose the date of appointment of the concerned workman in its first written statement submitted on 27-2-87 and supplementary written statement-cum-rejoinder submitted on 30-1-88. It appears that the management subsequently became wise and disclosed in its rejoinder to supplementary written statement submitted on 21-12-88 that the concerned workman was employed as a 'badli' workman in May, 1973. I have already pointed out that there is no scope for appointment of 'badli' workman by the management of the Bank outside frame work of the awards and bipartite settlements and that the awards and bipartite settlements do not envisage engagements appointment of 'badli' workman. Even so, in this rejoinder to supplementary written statement the management has not disclosed specifically the exact date of appointment of the concerned workman. MW-1 Sri Prabhakar Jha has admitted in cross-examination that he does not recollect the actual month when the concerned workman came to join in Murliganj Pay Office. On the other hand, the emphatic case of the concerned workman is that he was appointed as temporary guard-cum-messenger at Murliganj Pay Office of the Bank with effect from 1-3-73. The concerned workman has stated in his evidence that he was appointed by Sri P. Banerjee, Branch Manager, Purnea Office and he was directed to report to Murliganj Pay Office for performance of duties there, but no written letter of appointment was given to him. Sri Prabhakar Jha has admitted that the Branch Manager Purnea sent the concerned workman to Murliganj Pay Office for his employment as 'badli' guard and that he issued the instruction verbally. He has further stated that the appointment of staff is within the power of Branch Office and Pay Office has got nothing to do with it. Thus the fact remains that no letter of appointment was issued to the concerned workman nor was any written order given to Murliganj Pay Office for employment of the concerned workman there.

13. Paragraph 495 of Sastry Award envisages that 'on a candidate's appointment as a temporary employee, a probationer or a permanent member of the staff, the bank shall give him a written order specifying the kind of appointment and the pay and allowances to which he would be entitled and that such a written order shall be given on the appointment of a part-time employee also'. This, provisions for issuing written order in respect of appointment has been retained in Desai Award in Clause 23.20. In the instant case no written order of appointment was issued to the concerned workman by the Bank. Evidently this is a departure from the Awards and in doing so the Bank has not only over-reached itself but also adopted an unfair and demeaning practice.

Paragraph 516 of the Sastry Award envisages that the Bank should maintain a Service Book in respect of temporary employee, probationary employee or permanent employee containing the particulars relating to date of birth, identification marks, entry into service as a temporary employee or probationer, confirmation or permanent appointment etc. This provision of maintenance of service book as enjoined by the Sastry Award has been retained in the Desai Award. But the management has not produced the service book of the concerned workman to ascertain either the nature of his appointment or the date of his entry into the service.

14. The case of the management is that the concerned workman worked for 142 days in the Bank, while the case of the concerned workman is that he worked for more than 241 days in the Bank. In order to prove its case the management, it appears, heavily leaned on the Establishment Registers Exts. M-2 to M-4/4, Charge Account Registers Exts. M-7 to M-7/7, Payment Orders Exts. M-6 to M-6/4 statement of duties Exts. M-1 to M-1/5 and Payment Order Accounts Register Ext. M-8.

It appears that the case of the management is that the concerned workman was appointed in the month of May, 1973 and worked in the Bank till 2-2-74, but that too not continuously but intermittently.

Statements of duty are available for the month of July, 1973 to November 1973 and for January 1974.

As per the first written statement of the Bank the number of working days of the concerned workman is as follows:

May, 1973	— 17 days	September 1973	— 15 days
June 1973	— 12 days	October 1973	— 22 days
July 1973	— 13 days	November 1973	— 25 days
August 1973	— 20 days	December 1973	— 14 days
January 1974			— 02 days

As per the supplementary written statement-cum-rejoinder the number of his working days is as follows:

May' 73	— 19 days	Sept.' 73	— 15 days
June' 73	— 12 days	Oct.' 73	— 22 days
July' 73	— 13 days	Nov.' 73	— 25 days
August' 73	— 20 days	Dec.' 73	— 14 days
Jan '74			— 02 days

Thus it is seen that in the statements submitted by the Bank there is a clear discrepancy of two days which is accounted for in the month of May, 1973. The statement of duty of the concerned workman for the month of May 1973 has not been made available. On the other hand the concerned workman has claimed that he worked for 29 days in the month of May 1973.

15. Sri G. Prasad, Advocate for the management has submitted that the number of working days of the concerned workman for the month of May, 1973 will be available from the Establishment Register. But Establishment Register is not a primary document nor is it the best evidence. There is no dispute that the Establishment Registers are maintained at Branch Office level and not at Pay Office. MW-1 Sri Prabhakar Jha had admitted that establishment register at the Branch was used to be prepared on the basis of leave application submitted by permanent employees. But the management has not produced these leave applications of permanent employees and had it done so, there could have been an opportunity to decide the completeness and accuracy of the establishment register. Anyway, the establishment registers indicate that the number of working days of the concerned workman for the month of May 1973 to December 1973 agree with the statement as provided in the supplementary written statement-cum-rejoinder. Establishment register for the month of January 1974 has been made available, but since some three pages of the said register are missing MW-1 Sri Prabhakar Jha has been constrained to admit that because of the missing pages the number of working days of the concerned workman for the month of January, 1974 cannot be specified. Charges Accounts Registers for the month of July to December, 1973 and January, 1974 (Ext. M-7 series) have been produced to show amounts of salary and other allowances paid to the concerned workman during this period. The amounts shown therein agree with the number of working days of the concerned workman as given in the supplementary written statement-cum-rejoinder of the management. Even so, the charges accounts registers for the month of May and June 1973 have not been produced. Some Payment Orders have been produced by the management showing payment of salaries and other allowances to the concerned workman for the months of May to August 1973, October 1973 and December 1973 (Ext. M-6 series). Here also the payment orders for the months of September, November 1973 and January 1974 have not been produced. Anyway, these payment orders show the amounts paid to the concerned workman during the period as aforesaid which agrees with the number of working days of the concerned workman as given by the management in the supplementary written statement-cum-rejoinder. Payment Order Accounts Register (Ext. M-8) shows payment of salary of 'badli' workers for January 1974 including the concerned workman who was paid salary for two days for January 1974. All these documents were kept at Branch Office level and not at Pay Office level. The basic document for preparation of establishment register as stated by MW-1 Sri Prabhakar Jha is the application for leave submitted by permanent employees. These applications, as I have pointed out earlier, have not been

produced with the result that the correctness of entries in these registers and payment orders as aforesaid cannot be ascertained with any measure of certainty and accuracy. Statement of duties are available for the month of June, August, October, November, 1973 and January, 1974. These statements of duties were prepared by MW-1 Sri Prabhakar Jha, but the basis of his preparation of statements of duties has not surfaced in evidence. Besides, these statements are not complete documents for the period the concerned workman was admittedly appointed by the Bank and continued in the service of the Bank.

16. Another piece of best evidence that could have been produced by the management, but which the management did not, is the attendance register. By petition dated 15-11-88 the concerned workman called for certain documents including attendance registers in respect of guards and messengers for the period from 1973 to 1975 relating to Murliganj Pay Office of the Bank and Establishment Register of Murliganj Pay Office for the period from 1973 to 1976. By petition dated 21-12-81 the management contended that the concerned workman has no locus-standi to call for the documents and that the documents are too old and not being properly maintained. The documents called for by the workman were never produced by the management. The management has never stated that the documents called for are not in its possession, but it showed its reluctance to produce its documents. The reluctance of the management to produce the documents called for is considered to be an attempt to subvert disclosure of truth in the garb of legal shibboleth. Anyway, MW-1 Sri Prabhakar Jha and MW-3 Sri D. N. Prasad have tried to rescue the management by resorting to salvo operation as expressed in their testimony. MW-1 Sri Prabhakar Jha has stated in cross-examination that there was no attendance register for 'badli' workmen and whenever a permanent guard remained absent that was noted in the attendance register as blank and for the days he remained absent the concerned workman was provided duty and in the monthly statement his attendance was used to be shown and that on the basis of attendance of guards as kept in the attendance register, the attendance of the concerned workman as 'badli' workman was used to be maintained. He has admitted further that it is possible to say after going through the attendance register the number of working days of concerned workman for a particular month and that the concerned workman used to work as messenger whenever the messenger remained absent from duty and from the attendance register of the messengers it can be ascertained the working days of the concerned workman for a particular month. Thus the evidence of this witness discloses that the attendance register of permanent guards and messengers, if produced, would have shown the number of working days of the concerned workman. Sri Jha has stated that in 1984 he got a memo from the Branch Officer with a direction to proceed to Murliganj Pay Office where he could not find the attendance register. But this memo of the Branch Manager has not been produced. The creditability and veracity of this witness are not beyond the reproach and doubt which I will be pointed out by discussing evidence later.

As per evidence of Sri Jha so long as he was posted to Murliganj Pay Office old attendance registers were used to be kept in the record room and current attendance registers were used to be kept in the office. MW-3 Sri D. N. Prasad has stated that he looked for the old records in connection with the case in Regional Office Branch Office at Purnea and that the records which are available have been produced before this Tribunal. Thus the evidence of this witness establishes the fact that no attempt was made or pains spared to procure and produce official records including attendance registers from Murliganj Pay Office.

17. MW-1 Sri Jha has stated that the concerned workman used to get his payment mostly from the Branch Office but sometimes he used to get his pay from Murliganj Pay Office whenever payment from the Branch Office was not made to him. No document showing payments made from the Pay Office has been produced before me. The concerned workman has stated in his testimony that whenever he used to perform the duties of guards, vouchers were used to be prepared at Pay Office and sent to the Branch Office at

Purnea. But whenever he used to perform his duty as messenger he used to get payment through voucher from Pay Office and that whenever he used to get payment through vouchers the same was used to be recorded in the demi book maintained in the Pay Office. Disputing this position Sri Jha has stated that never payment was made to the concerned workman through voucher and that no book by the nomenclature of demi book was maintained at Pay Office. Even if the position is believed to be so, the fact remains that sometimes the concerned workman got his payment from the Pay Office but no document has been produced for such payment which would have thrown light on the number of working days of the concerned workman.

Sri J. D. Lal, Advocate for the concerned workman has pointed out to me paragraph 9 of the supplementary written statement submitted by the concerned workman wherein it has been stated that the concerned workman was paid his salary by Pay Order by Madhepura Branch of the Bank and also through the vouchers at Murliganj Pay Office and this dual system of payment was resorted to distort the records in regard to the number of days of duty performed by a temporary workman including the concerned workman as there was specific order of the Bank not to employ any temporary workman for more than 90 days in a year in order to create an artificial break in his service as well as for the purpose of avoiding the provisions of Section 25-F of the Industrial Disputes Act. The management has denied that there was dual system of payment. In support of the case of the concerned workman, Sri Lal has pointed out the failure report of the A.I.C.C. Patna (Ext. W-8). In this report the A.I.C.C. has stated that the management's representatives have stated that there are two systems of payments of salary/wages to temporary sub-staff employees, one through the establishment register and the other is through petty cash register paid on vouchers. MW-1 Sri Prabhakar Jha has stated that petty cash register was meant for payment of contingent expenses and it is not meant for payment of salaries to 'badli' workers and that payment was never made to the concerned workman through vouchers. Even so, his evidence discloses that payments to the concerned workman were made mostly by Branch Office and sometimes by Pay Office. No document showing payments to the concerned workman by the Pay Office has been produced. Establishment Register, Charge Accounts Registers, Payment Orders, Payment Order Registers and statement of dues do not reflect independently the total number of working days of the concerned workman in the Bank. Hence, case of the management that the concerned workman worked for only 142 days in the Bank from May'73 to January'74 has not been proved by evidence on record.

18. The case of the concerned workman is that he worked for more than 240 days in the Bank from March'73 to January'74. He has stated in his testimony that from 3-3-73 to 7-1-74 he worked in the Murliganj Pay Office as guard-cum-messenger. He has given a list of his working days in the Bank in the Annexure to the written statement marked Annexure-I & Annexure-II. In Annexure-I he claimed attendance for 265. But the Annexure-II discloses 241 days as his working days. This discrepancy obviously is for the fact that he claimed to have worked for 31 days in the month of January'74 while actually he worked for 7 days in January'74 as disclosed in Annexure-II.

19. Sastri Award in paragraph 518 envisages that every employee who leaves service or retires or is dismissed or discharged shall without avoidable delay be given a service certificate. Presumably in conformance to this provision a service certificate in the form of statement of duty was given to the concerned workman by MW-1 Sri Prabhakar Jha the then Official-in-charge of Murliganj Pay Office on 29-1-74 (Ext. W-1). This statement of duty establishes a fact that the concerned workman worked in Murliganj Pay Office as 'badli' guard-cum-temporary-messenger from March, 1973 to January, 1974, his total working days being 241 days. In the written statement the management has stated that this service certificate has no force in the eye of law since the person issuing the certificate had no authority to issue the same and that the concerned workman in collusion with the issuing authority has tried to commit fraud upon

the Bank and this Tribunal. No evidence has been laid to prove that Sri Prabhakar Jha, Official-in-charge of Murliganj Pay Office had no authority to issue such service certificate. There is no vestige or evidence also that the concerned workman colluded with the Official-in-charge to procure and produce his service certificate in order to commit fraud upon this tribunal. It appears that by letter dated 29-8-84 (Ext. M-10) Sri Prabhakar Jha was called upon by the higher authorities of the Bank to submit an explanation as to how he could issue such certificate. Sri Jha's evidence indicate that he bided time almost for 4 years and braced himself up to submit an explanation only on 30-7-88 stating that he has not issued any such letter nor he has signed the same since there is material difference between the signature appearing in the letter and his usual signature. It appears that Sri Jha disclaimed his signature on the service certificate in order to save his skin. There is no material difference or discrepancy in his signature as appearing in the statement of duty Ext. M-1 and his other signatures available on record. The written statement of the management also does not disclose that the statement of duty (Ext. M-1) does not bear the signature of Sri Jha. This being the position, I have no hesitation to hold that Sri Jha is a man who has got least respect for the truth and can disclaim anything he has done when he feels the situation hot for him. Anyway, I hold that the statement of duty or service certificate (Ext. M-1) was issued by Sri Jha, the then Official-in-charge of Murliganj Pay Office and that there is no evidence to show that he had no authority to issue such certificate.

20. The evidence of the concerned workman and the service certificate and non-production of material documents as pointed out above, have led me to conclude that the concerned workman worked in the Bank in Murliganj Pay Office of the Bank as temporary guard-cum-messenger for 241 days from March'73 to January'74.

21. The case of the concerned workman is that the management arbitrarily dispensed with his service. In reply to that the management has stated in the written statement that as being a 'badli' guard to be appointed as and when leave vacancy arises the concerned workman cannot claim to be in continued employment of the Bank. In the supplementary written statement the Bank has further stated that as a 'badli' workman the service of the concerned workman came to an automatic end as soon as the permanent workman resumed duty and that the concerned workman had no guaranteed right of employment on that job. This being the position taken by the Bank, it is obvious that the service of the concerned workman was dispensed with by the Bank. The concerned workman has also stated that the Official-in-charge, Murliganj Pay Office stopped him from performance of duty after 7-1-74 reportedly as per order of the Branch Manager, Madhepura Branch, MW-1. Sri Prabhakar Jha, over zealous as he is, went a step further and stated in his evidence that the concerned workman himself did not report for duty after 2-1-74 which is not even the case of his employer. For these reasons, I stated earlier that the creditability and veracity of this witness is not beyond reproach and doubt and that he is man having least respect for the truth. However, the position is reached that the service of the concerned workman was terminated with effect from 8-1-74 by the Bank without any reason.

22. The Bank dispensed with the services of the concerned workman without giving him notice despite the provision for giving such notice in paragraph 522 of Sastri Award and without paying him compensation as per provision of Section 25-F of the Industrial Disputes Act. That being so, the action of the Bank in terminating the services of the concerned workmen with effect from 8-1-74 is illegal and hence not justified.

23. It appears from the pleadings that the Bank issued Circular No. 77 of 1984 dated 17-5-84 giving notice for absorption in service of all temporary employees. The Bank has taken the position in its written statement that the concerned workman did not avail himself of the opportunity by registering his name. But it appears that the General Secretary, State Bank of India Staff Association wrote to the Chief Regional Manager, State Bank of India, Regional 2578 (I) 89-4.

Once Purnea on 7-7-85 requesting for registration of the name of concerned workman for absorption in permanent vacancy. This letter appears to have enclosed an application in prescribed proforma of the concerned workman (Ext. W-4,2). Even then, the Bank does not appear to have made any response to this letter.

24. Sri G. Prasad, Advocate for the management has contended that the claim of the concerned workman is a stale one since it has been made after the lapse of almost 12 years from the date of termination of his service. The position is not really so. It appears from the report of the A.I.C. (Ext. W-8) that by letter dated 6-9-83 the Secretary, State Bank of India Staff Association raised the present industrial dispute. But in the meantime the concerned workman did not remain idle or sleep over the matter. By a series of letter dated from 7-8-74 to 6-5-82 he pleaded with the management for his employment in the Bank (Ext. W-313 to W-3111). By letter dated 6-1-82 (Ext. W-4) and 29-4-82 (Ext. W-411), General Secretary, State Bank of India Staff Association requested the management for reinstatement of the concerned workman in service. Most of these letters were posted under certificate of posting (Ext. W-5 series) and some of them by regd. post (Ext. W-6).

Sri G. Prasad, Advocate for the management has submitted that all these letters are manufactured since some of the letters are dated on Sundays (Exts. W-318 & W-315) and since some of the certificates of postings are also dated on Sundays. It may be that the concerned workman dated some of his letters on Sundays but posted them on working day. But that does not indicate that the letters were manufactured. Moreover, he is not responsible if the postal authority put its date-stamps which fell on Sundays. Sri Prasad has contended that the concerned workman colluded with the postal authorities in order to manufacture these letters. But regard being the status of the concerned workman, who is an unemployed person, I do not consider him so much resourceful as to collude with the Bank Official to procure a service certificate which according to the Bank is not true and thereafter to collude once again with the postal authorities to manufacture letters in order to post them on Sundays. In the circumstances, I have no hesitation to conclude that the instant industrial dispute is a live issue and has not become a stale one because of the altered position of the concerned workman.

25. Sri G. Prasad has further contended that each Branch Office and Pay Office of the State Bank of India are separate industrial establishments and hence the present reference for adjudication whether the action of the management of State Bank of India in terminating the services of the concerned workman is not justified. In support of his contention Sri Prasad has pointed out the registration certificate of Murliganj Pay Office and Purnea Branch Office marked Exts. M-11 M-11/1 & M-11/2. But those registration certificates are under Bihar Shops and Establishment Act and these do not indicate that each Branch Office and Pay Office of State Bank of India is a separate industrial establishment. There is no evidence on record to show that the unit of Murliganj Pay Office or Purnea Branch Office is severable from the Main Establishment of the State Bank of India. No Profit and Loss account or Balance Sheet has been produced to show that Murliganj Pay Office or Purnea Branch Office was a separate unit. This being the position, I hold that the present reference is perfectly maintainable.

26. Before concluding, I cannot but express my distress over the intemperate language used in the rejoinder of the management to the supplementary written statement of the concerned workman. While stating modalities of appointment in Bank it has been stated in paragraph 11(vi) of the rejoinder of the management that State Bank of India is not 'Bania's (Grocery) Shop'. Indeed the State Bank of India is not a 'Grocery Shop', but it is not a trade house either. By systematically disregarding the provisions of Award—by appointing workman by sticking a level on him as 'badli' which is not warranted by Award and Settlements, by issuing no letter of appointment, by

not maintaining service records and by not giving notice of termination despite the provisions therefor in the Awards—the management of the State Bank of India has rendered performance no better than a self-willed person. It appears that the management has been living in the glass house where whiff of change in industrial laws and relationship does not readily make its presence felt.

27. Anyway, the issue is clinched and the result of adjudication is that the action of the management in terminating the services of the concerned workman is not justified and that the concerned workman is entitled to get back his employment with 75% of his back wages from the date of reference of the dispute to this Tribunal.

28. Accordingly the following award is rendered—The action of the management of State Bank of India in terminating the services of the concerned workman sub-staff Murligani Pay Office (Madhepura) is not justified. The management is directed to reinstate him in service with effect from the date of reference i.e. from 22-8-85 with 75% of back wages within one month from the date of publication of this award. The concerned workman shall be given continuity of service and during the period of his absence from duty from 8-1-74 to 21-8-85, under compellative circumstances, he shall be treated to be on duty on special leave. The concerned workman is directed to report for duty at Madhepura Branch Office within one month from the date of publication of the Award.

In the circumstances of the case, I award no costs.

S. K. MITRA, Presiding Officer
[No. L-12012/13/85-D.II(A)/D.III(A)]

नई दिल्ली, 7 अक्टूबर, 1989

का. आ. 2446:—आधिकारिक विवाद अधिनियम, 1947 (1947 का 14) की वारा 17 के अनुसरण में, केन्द्रीय सरकार, स्टेट बैंक ऑफ ब्रैंक नेर एंड जयपुर के प्रबन्धालय के संबंध मियोजकों और उनके कर्मकारों के बीच, अन्वन्त में निर्दिष्ट आधिकारिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, व अम न्यायालय नं. 2 अम्बाई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5 अक्टूबर, 1989 को प्राप्त हुआ था।

New Delhi, the 7th September, 1989

S.O. 2446.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Cum Labour Court No 2, Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of Bikaner and Jaipur and their workmen, which was received by the Central Government on 5-9-89.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY.

PRESENT :

Shri P. D. Apshankar, Presiding Officer.
Reference No. CGIT-2/20 of 1987

PARTIES :

Employer in relation to the management of State Bank of Bikaner & Jaipur

AND

Their Workmen.

APPEARANCES :

For the Employer : Shri A. Kulkarni, Advocate.

For the Workmen : Shri B. W. Viadya, Advocate.

INDUSTRY : Banks

STATE : Maharashtra

Bombay, dated the 29th August, 1989

AWARD PART I

The Central Government by their Order No. L-12012/212/86-D. II(A) dated 24-3-1987 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act :—

“Whether the action of the management of State Bank of Bikaner and Jaipur in dismissing Shri V. P. Singh from service is justified ? if not, to what relief the workman is entitled ?”

2. The case of the workman Shri V. P. Singh as disclosed from the statement of claim filed by the General Secretary, State Bank of Bikaner & Jaipur Employees' Union (Ex. 2) in short, is thus :—

In March 1982 the workman Shri V. P. Singh was working as officiating Cashier of the Mulund Branch of the Bank. On 8-3-1982, he took the charge as Cashier as usual as. On that day he received two cheques of the denominations of Rs. 11,000/- and Rs. 3,000/- for payment. The workman made the payment of the said cheques. Thereafter, on the request of the customer and Account holder Shri K. F. Singh, the workman filled in a cheque for Rs. 30,000/- for the said customer. The workman handed over the cheque and asked the customer to collect the token from the Ledger Keeper. The workman went back to his cabin to find that the cheque for Rs. 30,000/- was kept on his table for payment. He opened the Cash box to take out Rs. 30,000/- for paying to the said customer. However, he found that an amount of Rs. 40,000/- was short, and as such missing from the Cash box. He immediately reported the matter to the Accountant and Joint Custodian of the Branch. All of them then verified the cash and then reported the matter to the Manager of the Branch. The Branch Manager then immediately filed a complaint with the Police in the Police Station Mulund alleging that a theft of Rs. 40,000/- has taken place in the morning of that day. The Police arrested the workman Shri V. P. Singh and thereafter a criminal case was filed against him. He however came to be discharged by the Metropolitan Magistrate, Mulund for want of evidence on 28-10-1982.

3. Thereafter on 18-12-1982, the Bank issued the charge-sheet against the workman Shri V. P. Singh alleging that the Bank had suffered a loss of Rs. 40,000/- due to his utter negligence, that he had thereby committed gross misconduct as per para 19.5(i) of the Bi-partite Settlement of 1966. The workman replied to that chargesheet. Thereafter an enquiry officer was appointed to enquire into the lenses. The Enquiry Officer submitted his report on 29-10-1983 and concluded that the Bank had suffered a loss of Rs. 40,000/- due to the negligence of the said workman, and nobody else was to be blamed for the loss. Thereafter a show cause notice was issued to the workman by the disciplinary authority to show cause why he should not be dismissed from service. The workman replied to that notice. The disciplinary authority by order dated 19-5-1984 dismissed the workman Shri V. P. Singh from service. Against that order, the workman filed an appeal to the Appellate authority. The Appellate authority without granting any personal hearing to the workman, dismissed his appeal by the order dated 8-9-1984. The workman hereafter entered into correspondence with the management. Thereafter, the Appellate authority gave a personal hearing to the workman on 24-11-1984. The workman Shri V. P. Singh then offered to make good the loss of the amount of Rs. 40,000/. By order dated 3-5-1985 the Appellate authority modified the order of dismissal to one of discharge, and accordingly the workman was discharged from service with effect from 19-5-1984. The Union alleged that the said loss of Rs. 40,000/- was not caused by the negligence of the workman. It further contended that the amount of Rs. 40,000/- has been reimbursed to the Bank by the Insurance Company on the application of the Bank alleging that a theft had taken place in the Bank. The Union therefore prayed that the order of the management in discharging the workman from service, is not just and proper, that even the punishment of discharge in

the alternative, is too harsh, and that the workman be reinstated in service with back wages and continuity of service.

4. The State Bank of Bikaner & Jaipur by their written statement (Ex. 3) contested the claim of the Union, and in substance contended thus :—

On 8-3-1982 the workman Shri V. P. Singh was working as an officiating Head Cashier, and not as an officiating Cashier of the Mulund Branch of the Bank. On that day a sum of Rs. 1,10,000/- was withdrawn from the vault of the Branch and handed over to the workman in the morning of that day. He was also handed over a hand balance of Rs. 13,654.11. Thus an amount of Rs. 1,23,654.11 was then in the custody of the workman. After three disbursements of the amounts, at about 9.20 A.M. a shortage of Rs. 40,000/- in the form bundles of currency Notes of the denomination of Rs. 100/- was detected. Even though the workman was the custodian of the cash amount, he failed in his obligation to make good the above said shortage before the close of that day. Thereafter, the workman was called by the Branch Manager to make good the loss of his said amount, but he failed to do so. A chargesheet was thereafter issued on 18-12-1982 and he was suspended from service. The workman admitted before the Enquiry Officer that an amount of Rs. 40,000/- was not found in the Cash Box. After the necessary enquiry was over, the disciplinary authority passed an order of dismissal against him. The workman filed an appeal against that order. On 24-11-1984 a personal hearing was given to him by the Appellate authority. Before the Appellate authority the workman expressed his willingness to make good the loss, and also expressed his preparedness to immediately deposit with the Bank a sum of Rs. 20,000/- with a request that the Bank management may allow him to pay the balance amount by instalments. The Appellate authority reduced the punishment of dismissal passed by the disciplinary authority to one of discharge. In the above said enquiry held against the workman, he was given ample, fair and reasonable opportunity to defend himself, and it was conducted as per rules of natural justice. The workman fully participated in the domestic enquiry and was presented by a defence representative. There was utter lack of care on the part of the workman to protect the said amount of the Bank, and as such, the Bank was required to suffer the loss of Rs. 40,000/-. Eventhough the Bank was reimbursed the substantial amount out of the amount of Rs. 40,000/-, it does not exonerate the workman from the said charge. The action of the Bank in discharging the workman is quite proper and just. The Bank management, therefore, prayed for the rejection of the prayer of the Union.

5. Issues framed at Ex. 4 are :—

- (1) Whether in the domestic inquiry held against the workman Shri V. P. Singh, he was given proper and reasonable opportunity to defend himself, and the rules of natural justice were properly followed?
- (2) Whether the fact that the Bank in question was reimbursed by the Insurance Company with the missing amount of Rs. 40,000/- exonerates the workman from the charge levelled against him by the Bank?
- (3) Whether the order of discharge from service passed by the Appellate Authority is highly disproportionate to the guilt, if any, of the workman?
- (4) What is the effect of the order of discharge passed by the Metropolitan Magistrate in the criminal case filed against the workman, upon his alleged misconduct?
- (5) Whether the action of the management of State Bank of Bikaner and Jaipur in dismissing/discharging Shri V. P. Singh from service is justified?

(6) If not, to what relief the workman is entitled?

(7) What award?

6. Issue No. 1 has been tried as a preliminary Issue. My finding on Issue No. 1 is in the affirmative for the following reasons.

ISSUE NO. 1

REASONS

7. Ex. 5 is a copy of the chargesheet dated 18-12-1982 issued by the disciplinary authority against the said workman. Ex. 6 are the copies of enquiry proceedings held against the said workman by the Enquiry Officer Shri Anand Swarup. It is seen from these proceedings that the workman was represented by his representative Shri Y. A. Sihorwala. It is seen from the enquiry proceedings that the charge was read out to the workman. The workman denied the charges. Thereafter six witnesses were examined on behalf of the Bank management and they were allowed to be cross-examined on behalf of the workman. Thereafter one witness was examined on behalf of the workman and he was offered for cross-examination on behalf of the management. Thereafter the workman himself gave his statement before the Enquiry Officer. The Bank representative put some questions to him.

8. The copy of the Enquiry report dated 29-10-1983 made by the Enquiry Officer is at Ex. 7. At the end he concluded that it was true that the Bank has suffered a loss of Rs. 40,000/- due to the negligence of the workman and nobody else was to be blamed for that. Thereafter, the disciplinary authority issued a notice to the workman dated 11-2-1984 (Ex. 8) asking him to show cause why he should not be dismissed from service. The workman by his reply dated 11-3-1984 (Ex. 9) requested that the said punishment be not imposed upon him and that he was performing his duties efficiently and that the Bank had not suffered the said loss due to any negligence on his part. The Disciplinary authority by his order dated 19-5-84 (Ex. 10) dismissed the said workman from service. The workman filed his appeal dated 8-7-1984 (Ex. 11) against the order of dismissal to the Appellate Authority. The Appellate authority by its order dated 8-0-1984 (Ex. 12) confirmed the punishment of dismissal and rejected the appeal of the workman. It is seen that no personal hearing was granted at that time to the workman by the Appellate authority. However, it is further seen from the order dated 3-5-1985 (Ex. 14) that later on a personal hearing was given by the Appellate authority to the said workman and thereafter he reduced the punishment of dismissal to that of discharge purely on humanitarian consideration. Therefore, the workman came to be discharged from the service of the Bank. Thus, it is quite clear from the whole of the enquiry proceedings that the enquiry was held against the workman after following the rules of natural justice, and he was given full opportunity to defend himself, that the workman's representative fully tried to defend that workman and that at the end a personal hearing was given by the Appellate authority and thereafter the order of discharge from service was passed against him. Therefore, Issue No. 1 is found in the affirmative.

P. D. APSHANKAR, Presiding Officer

[No. L-12012/212/86-D.III(A)/D.III(A)]

S. C. SHARMA, Desk Officer

नई दिल्ली, 8 सितम्बर 1989

का.आ. 2447 :—ओर्डोरिंग विवर अधिनियम, 1947 (1947 पा. 14) को धारा 17 के अन्तरण में, केन्द्रीय सरकार उत्तर रेलवे लखनऊ के प्रबन्धनालय के संबद्ध मियोजकों और उनके कमीकरणों के केन्द्रीय प्रबन्ध में निर्विष्ट ओर्डोरिंग विवर में केन्द्रीय सरकार ओर्डोरिंग अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-9-89 को प्राप्त हुआ था।

New Delhi, the 8th September, 1989

S.O. 2447.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Lucknow and their workmen, which was received by the Central Government on the 1-9-89.

BEFORE SHRI ARJAN DEV PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT, PANDU NAGAR, KANPUR.

Industrial Dispute No. 83/89

In the matter of dispute between :

The Divisional Secretary Uttar Railway, Karamchari Union 39-II-J Multistoried Building, Rly Colony, Charbagh, Lucknow.

AND

Carriage & Waggon Suptd., Uttar Railway Charbagh, Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-410/12/91/87-D-2(B) dated 20-3-89, has referred the following dispute for adjudication to this tribunal :

Kya carriage and wagon superintendent, Uttar Railway Charbagh Lucknow dwara Shri Ram Sewak se jo ki fitter ke pad per karyarat hai safai fale ka kam lena nyayochit hai ? Yadi nahi to sambandhit karmkar kis anutosh ka hakdar hai ?

2. The present case was fixed for filing of claim statement on behalf of the workman on 20-7-89 at camp Lucknow but instead of filing of claim statement, Shri D. P. Awasthi, has filed an application to the effect that the grievance of the workman has been redressed and that the present dispute be closed in view of it.

3. As such from the circumstances stated above the present reference has become infructuous.

4. The reference is answered accordingly.

ARJAN DEV, Presiding Officer
[No. L-41012/91/87-D. II(B)]

का.आ. 2448:—ओर्डोरिकन विवाद अधिनियम, 1947 (1947 का 14) की पारा 17 के प्रत्यरूप में, केन्द्रीय सरकार, नेशनल पूलियम एफ नेशनल विल्सोन, नई विल्सोन के अन्वरत्र से संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट ओर्डोरिकन विवाद में ओर्डोरिक अधिकारण, नई विल्सोन के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 4-9-89 की प्राप्त हुआ था।

S.O. 2448.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of National Museum Natural History, New Delhi and their workmen which was received by the Central Government on the 4-9-89.

ANNEXURE

BEFORE SHRI G. S. KALRA; PRESIDING OFFICER;
CENTRAL GOVT. INDUSTRIAL TRIBUNAL: NEW
DELHI

I.D. No. 4/89

In the matter of dispute between

Shri Onkar Ben, House No. D-222, Teliwara, Shahdara,
Delhi-32.

Versus

The Director, National Museum of Natural History,
FICCI, Museum Building, Barakhamba Road, New
Delhi.

APPEARANCES :

Shri A. K. Behl for the Management. None for the workman.

AWARD

The Central Government in the Ministry of Labour vide its Order No L-42012/53/87-D.II(B) dated 27th December, 1988 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the action of the management of National Museum of Natural History in terminating the services of Shri Onkar Ben with effect from 30-9-85 is justified ? If not, to what relief the workman is entitled ?”

2. The workman did not file any statement of claim alongwith the relevant documents etc. as directed in the order of reference within the stipulated period of 15 days. Several registered notices have been issued by this Tribunal but the workman has not put in appearance. Therefore, it appears that the workman is not interested in pursuing this dispute. Hence no dispute award is given and the reference is disposed of accordingly.

Further it is ordered that the requisite number of copies of this Award may be forwarded to the Central Government for necessary action at their end.

25th August, 1989.

G. S. KALRA, Presiding Officer
[No. 42012/53/87-D.II(B)]

नई विल्सोन, 12 सितम्बर, 1989

का.आ. 2449:—ओर्डोरिकन विवाद अधिनियम, 1947 (1947 का 14) की प्रारा 17 के प्रत्यरूप में, केन्द्रीय सरकार सी. पी. इल्लू. डी., सेन्ट्रल इलैक्ट्रिकल डिविजन विवेन्ट्रम के प्रबन्धसंल के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट ओर्डोरिकन विवाद में ओर्डोरिक अधिकारण, विल्सोन के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 29-8-89 की प्राप्त हुआ था।

New Delhi, the 12th September, 1989

S.O. 2449.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Quilon as shown in the Annexure, in the industrial dispute between the employers in relation to the management of CPWD, Central Electrical Division, Trivandrum and their workmen, which was received by the Central Government on the 29-8-89.

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL,
QUILON

(Dated this the 19th day of August, 1989)

PRESENT :

SRI. C. N. SASIDHARAN

IN

INDUSTRIAL DISPUTE NO. 20,87
BETWEEN

The Executive Engineer (Elec.), Trivandrum Central Electrical Division, CPWD., Thulasi Bhavan, Music Academy Road, Thycaud, Trivandrum.

(Smt. K. J. Thresia, Additional Central Govt. Pleader, Trivandrum)

AND

The Regional Secretary, Central Public Works Department, Mazdoor Union Regional Committee, Southern Zone, C-50-Chera Nagar, MTP Road, Coimbatore-641029.

(By Sri R. Lakshmana Iyer, Advocate, Trivandrum)

AWARD

The Government of India, as per order No. L-42012/128/86-D.II(B), dated 7-10-1987, has referred this industrial dispute between the above parties for adjudication.

The issue involved as per the schedule is :

"Whether the action of Executive Engineer (Elec.) Trivandrum Central Electrical Division, CPWD, Trivandrum in terminating Sri Gangadharan, N.M.R. Khalasi from service with effect from 18-11-1985 is legal and justified ? If not, to what relief the workman is entitled ?"

2. The union expounding the cause of the workman has filed a claim statement and the contentions briefly stated are thus : The workman, Sri. Gangadharan, was appointed to the post of Electrical Khalasi on Muster Roll with effect from 23-11-1983 after interview as sponsored by Employment Exchange. He was employed in that post continuously thereafter. As per para 26.06 of the CPWD Manual (Vol. II) the Muster Roll labour are to be given one day off with pay after every full days of work. But the workman was not being paid any paid holiday by the management. This was done to make out that the workman was not continuously employed. However, as per the certificates issued by the management the workman was working continuously. While so on 19-11-1985 when the workman reported for duty as usual, the Asst. Engineer (Elec.) Sub-Division No. I, CPWD., Trivandrum told him that his service stood terminated. According to the union such termination of service is illegal and unjustifiable. No notice or wages in lieu of notice was given to the workman. No compensation was also paid. The management has retained several persons in service while terminating the services of Sri. Gangadharan without any reason. The action of management is against the time honoured principle of last come first go. The case of the management that the workman was absenting himself from 18-11-1985 is not true. It is only an after thought to justify the illegal termination of services of the workman. After 19-11-1985 the workman was making regular enquiries with the management but he was not provided any work. The prayer is therefore for reinstatement in service with full backwages, continuity in service and all other service benefits.

3. The management refuted the case pleaded by the union. The contentions of the management briefly stated are thus : This Tribunal has no jurisdiction to entertain this case as it is not a case of illegal termination. The service of Sri. Gangadharan was not terminated but he himself absented from work with effect from 19-11-1985 without any intimation to the management. Hence he is not entitled to any

relief. He was appointed as NMR. on daily wage of Rs. 13.75 with condition that his services would be terminated as and when the work for which he was employed is completed. He was not employed continuously. He was only a casual worker and not engaged for any reengagement. Sri. Gangadharan is not a workman under the Industrial Disputes Act, 1947 (the Act for short). Sri. Gangadharan was engaged for unskilled jobs connected with construction of International Terminal Building at Aerogram Trivandrum and was engaged in February 1983. After the completion of that work his services were no more required and hence he stopped attending as there was no work for him. After that another two sections required as Khalasis for certain specific work. He was again engaged since 22-3-1985 and while that work was nearing completion he absented himself from 18-11-1985. The payment of daily wages Rs. 13.75 is inclusive of a portion of weekly off day's salary. Therefore the claim for payment of salary for off days is unsustainable. Sri. Gangadharan was not reported for duty on 19-11-1985 and he has not approached the Asst. Engineer or Executive Engineer. He appeared before the Asst. Engineer on 17-12-1985 after absenting himself since 18-11-85 for an experience certificate. There was no representation regarding his non employment till February 1986 and hence the question of termination does not arise. The juniors of Sri. Gangadharan have been retained since they attended for duty while Sri. Gangadharan absented. Those who have completed 240 days in two consecutive years have become eligible for regular employment and as such regularised. The workman is not entitled to get reinstatement in service as there was no illegal termination.

4. The union has filed a replication reaffirming its contentions and disputing the case pleaded by the management.

5. The evidence consists of the depositions of WW1 to WW3 and Exts. W1 to W5 on the said of the union. Two Asst. Engineers of the management have given evidence in support of the management and Exts. M1 to M7 have been marked on its side.

6. The first point to be considered is whether the management has terminated the services of Sri. Gangadharan or whether he absented himself with effect from 19-11-1985. WW1 to WW3 have given evidence in support of the case of the union that the services of Sri. Gangadharan was terminated illegally by the management. WW1 is a generator operator working in the Air Port Section. He has stated that the Asst. Engineer has terminated the services of Sri. Gangadharan on the ground that there was no work while other workers viz., Viswanathan, Rajamony, Shahji and Vijayan selected after the appointment of Sri. Gangadharan were retained in service and regularised as Electrical Khalasis. WW1 has seen Sri. Gangadharan on several dates after 18-11-1985 reporting for duty but was sent back by the management though there was work. On 19-11-1985 also WW1 has seen Sri. Gangadharan at 8 AM waiting for job. He has stated that he belongs to another union and not a member of the union represented by Sri. Gangadharan. According to him he and Sri. Gangadharan are working in the same power house. WW2 is the general secretary of the contesting union working at Madras. He has deposed that he used to come to Trivandrum for union activities and on complaint from Sri. Gangadharan, he discussed the matter of non-employment with Executive Engineer. But Sri. Gangadharan was not given employment. This witness has stated that the workman was not paid holiday wages and that the management has terminated the services of Sri. Gangadharan. Nothing has been brought out to disbelieve or discredit the version of this witness. WW3 is Sri. Gangadharan. He has deposed in support of his case. He reported for duty for two months after 18-11-1985 and his services were terminated by the Asst. Engineer, WW1, on 19-11-1985 at 8.30 AM without any reason. WW1 and lift operator Sri. Ganesan were present there in the morning according to this witness. He has further stated that while terminating his services his juniors were retained in service. According to him he was not appointed for a particular work only that there are other works for khalasis there that he was shifted from Section-I to Section-II after completion of work in Section-I and that his juniors S/s. Viswanathan, Rajamony, Shahji and Vijayan are still continuing there as Khalasis. Sri. Gangadharan has further stated that he has

completed 240 days continuous service that he has not obtained any job after 19-11-1985 and that he has complained about his non employment to WW2. Further he has not made any written complaint as he was expecting appointment as told by the Asst. Engineer when he reported for duty every day. The learned Adol. General Government Pleader Smt. Thresia, appearing for the management would contend that the case of union as spoken to by WW1 to WW3 is false due to the following reasons. According to learned Government Pleader, WW1 was on duty in the first shift from 6 AM on 19-11-1985 inside the Air Port Section as per Ext. M6 Log Book and Sri. Ganesan was on duty in the second shift from 2 PM on that day as per Ext. M7 Log Book. Hence the statement of WW1 that he has seen Sri. Gangadharan at 8 A.M. on 19-11-1985 and the statement of Sri Gangadharan that Sri. Ganesan was also present at the time are uncieveable and cannot be accepted. Admittedly the names of WW1 and Sri. Ganesan are not stated in the particular column of Ext. M6-A page and Ext. M7-A page respectively. But according to learned Government Pleader the signature in Ext. M6-A page and signature in Ext. M7-A page are that of WW1 and Sri. Ganesan respectively. It is pertinent to note that Exts. M6 and M7 were produced here after the examination of WW1 and WW3. Ext. M6 was never shown to WW1 to prove his signature in M6-A page. Sri. Ganesan was not examined before this Tribunal at all. It is true that while on duty the Generator Operator cannot go out of the section without permission. But it is not known whether WW1 went out of the section at 8 AM on 19-11-1985 with permission. The possibility of WW1 seeing Sri. Gangadharan at 8 AM in the Air Port premises cannot be ruled out merely because WW1 happened to be on duty from 6 AM. He might had seen Sri. Gangadharan from inside the section also. He was not cross examined on these aspects and he was not given opportunity to explain the position by showing Ext. M6. The possibility of Sri. Ganesan coming to the work spot in the morning though his duty shift was from 2 A.M. cannot also be ruled out. In the light of the above conclusion and since there are no other reasons to disbelieve WW1 and WW3 the contention of learned Government Pleader on this point is without force.

7. MW1 is the Asst. Engineer in the concerned section. He has stated that Sri. Gangadharan was posted for the work in the International Terminal Building. According to this witness he has not terminated the services of Sri. Gangadharan and he had not gone to the work site at 8.30 A.M. on 19-11-85 as alleged by Sri. Gangadharan. MW1 has admitted that as per Exts. W3 to W5 certificates issued by management Sri. Gangadharan has completed 240 days of work continuously. According to him he will have to go to work site at 8.30 AM only if there is any emergency or break down. He was not in a position to say whether there was any such insistence during the last two years without verification. So his definite statement that has not gone to the work site at 8.30 AM on 19-11-1985 without referring any record after about four years makes me doubt his version. The possibility of an Asst. Engineer going to the work spot at 8.30 A.M. in a working day cannot be ruled out due to breakdown or emergency. Further according to this witness he came to note that Sri. Gangadharan was not reported for duty after 19-11-1985 as per the Muster Roll. It has come in evidence that Junior Engineer Celin K. George has recorded the Muster Roll. The concerned Junior Engineer would have been the competent witness to say that Sri. Gangadharan was not reported for duty on 19-11-1985 and thereafter. But the concerned Junior Engineer was not examined here and the Muster Roll was also not produced. It cannot therefore be accepted that Sri. Gangadharan was not reported for duty after 19-11-1985 as deposed by MW1. MW2 is another Asst. Engineer. According to this witness the daily wage employees are paid wages including off days as per Government of India circular Ext. M5 dated 12-9-1985. Regarding the case of management that Sri. Gangadharan lost his job due to his purposeful absence with effect from 19-11-1985, this witness has only here say evidence. He has admitted that persons selected after the appointment of Sri. Gangadharan are still continuing there. According to him Sri. Gangadharan was not working in his section and he had no control over MW1. The evidence of this witness, according to me, is therefore not helpful to

the managements case that Sri. Gangadharan had abandoned his work and not terminated by MW1.

8. According to the learned Government Pleader Sri. Gangadharan was engaged for the construction work of International Terminal Building at the Air Port was completed in February 1982 and therefore the services of Sri. Gangadharan no more required. Further Sri. Gangadharan was not attending work after the completion of the work. Ext. W2 is the memo issued to Sri. Gangadharan for appearing for the interview before selection. It is not stated in W2 that the selection is for a particular work. No other record has been produced to show that Sri. Gangadharan was selected for a specific work. It is true that as per para. 26.01 of Ext. W1 Manual Muster Roll staff can be employed for a short period on jobs of purely of casual nature. But the duration is not specified. It is also not stated that Muster Roll staff can be employed for a particular work only. Hence this paragraph will not come to the rescue of the argument of management. Further it has come in evidence that persons selected after the appointment of Sri. Gangadharan are still continuing there as Electrical khalasis. It is also note worthy that Sri. Gangadharan was shifted to Section-II after completion of work in Section-I, where he was employed first. Hence the argument that Sri. Gangadharan was selected for a specified work and that after the completion of that work there was no work and that his services were no more required cannot hold good.

9. As per Exts. W3 to W5 certificates issued by the management Sri. Gangadharan has completed 240 days continuous service till 18-11-1985. MW1 has also admitted this. As per the certificates only five more days work are required for Sri. Gangadharan to complete two years service to become eligible for regularisation. It is quite unbelievable that a person having that much service will leave such an employment at a time when only five more days work are required to complete two years service to get regularisation, that too, from a Central Government Department in those days when the number of unemployed persons are increasing alarmingly and the chances of getting a job are too remote. This vital aspect considered along with the evidence of WW1 to WW3 and other circumstances probabilities the case of the union. Sri. Gangadharan being an unemployed person belonging to backward community deserves sympathetic consideration also. In these circumstances I accept the evidence of WW1 to WW3 in preference to the evidence of management's witnesses and hold that the service of Sri. Gangadharan was terminated by the management as contended by the union and not voluntarily abandoned by him.

10. The next point urged by Sri. Lakshmana Iyer, learned counsel for the union is that the management has not complied the provision of Sec. 25-N or 25-F of the Act in terminating the service of Sri. Gangadharan. Therefore the termination is ab initio void. This contention is vehemently opposed by the learned Government Pleader. The learned Government Pleader would contend that Sri. Gangadharan was only a casual employee that he has not completed 240 days in each of two consecutive years as per para. 2.02 of Ext. W1 and therefore the above provisions of the Act are not applicable in this case. It is not established that Chapter V-A of the Act dealing with lay-off and retrenchment is not applicable in this case. In deciding the question involved here it would be appropriate to refer Sec. 25-N of the Act. I quote below the relevant portion:

"25N. Conditions precedent to retrenchment of workmen :—

(1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—

(a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or

the workman has been paid in lieu of such notice, wages for the period of the notice; and"

The above provision makes it clear that the workman shall be given three months notice in writing or workman has been paid wages in lieu of such notice before retrenchment. Whether the workman is permanent or casual is not the criterion here. As per Ext. W3 to W5 certificates issued by the management Sri Gangadharan has completed more than one year continuous service. Hence Sec. 25-N of the Act is attracted. The learned Government Pleader sought to the notice of this court paragraph 2.02 and sub-clause-1 and 2 of Ext. W1 Manual to show that Sec. 25-N of the Act is not applicable. Paragraph 2.02 mainly deals with recruitment and preference of Muster Roll workers only. Further as per Sec. 25-J of the Act the provisions of Chapter-A V-3 shall have effect notwithstanding anything inconsistent therewith contained in any other law. Hence the above paragraph will not help the learned Government Pleader, in support of the argument admittedly the management has not complied the provisions of Sec. 25-N or 25-F of the Act and therefore the termination of the service of Sri Gangadharan is ab initio void and illegal. That being the case, Sri Gangadharan is entitled to get reinstatement in service. Since there is no evidence to show that Sri Gangadharan was employed for wages during the period after 19-11-1985, he is entitled to get backwages also.

11. The union has yet another contention that as per paragraph 26.06 of Ext. W1 Manual, Muster Roll labour are to be given one day off with pay after every full six days of work. But this provision was not being complied with the management and Sri Gangadharan was not being paid any paid holiday. The union therefore claims pay for the holidays also after full six days of work. This claim is opposed by the management on the basis of Ext. M-5 circular issued by the Government of India dated 12-9-1985. In the circular it is clarified that daily wages for Muster Roll workers are inclusive of the payment for rest day, no payment for substituted rest day is to be made to such workers. In the light of this specific clarification, the claim of union cannot stand. This contention of the union therefore fails.

12. In the result, an award is passed declaring that the action of the Executive Engineer of the management in terminating the services of Sri Gangadharan is illegal and unjustified. Hence Sri Gangadharan is entitled to get reinstatement with backwages and other service benefit.

APPENDIX

Witnesses examined on the side of the Union :

WW1—Sri C. Dasan

WW2—Sri S. Mohammedali

WW3—Sri Gangadharan

Witnesses examined on the side of the Management:

MW1—Sri KCS Pillai

MW2—Sri P. U. Unnikrishnan Namboodiri

Exhibits marked on the side of the Union

Ext. W1—CPWD Manual Vol. III

Ext. W2—Memo issued to Sri Gangadharan by the Asst. Engineer of management on 15-5-1983 for interview

Ext. W3—Certificate issued to Sri Gangadharan by the Asst. Engineer of management on 14-1-1985

Ext. W4—Certificate issued to Sri Gangadharan by the Asst. Engineer of management on 31-12-1985

Ext. W5—Certificate issued to Sri Gangadharan by the Asst. Engineer of management on 17-12-1985.

Exhibits marked on the side of the management:

Ext. M1—Photo copy of petition submitted by Sri Gangadharan to the Deputy Director, SCST Development Department Trivendrum on 27-5-1987.

Ext. M2—Application submitted by Sri Gangadharan to Asst. Engineer for experience certificate on 17-12-1985

Ext. M3—Certificate issued to Sri Gangadharan by the Asst. Engineer on 17-12-1985

Ext. M4—Photocopy of circular of the Government of India, CPWD, dated 10-9-1985

Ext. M4-A—Letter from CPWD to the Executive Engineer of the management at Trivandrum dated 23-2-1989

Ext. M5—Application submitted by Sri Gangadharan to the Asst. Engineer of the management on 17-12-1985

Ext. M6—Log book showing the shift work

Ext. M6-A—Page 86-87 of Ext. M6

Ext. M7—Log book of Lift operators

Ext. M7-A—Page No. 83 of Ext. M7.

C. N. SASIDHARAN, Presiding Officer
[No. L-42012/128/86-D.II(B)]

का.आ. 2450—श्रीयोगिक विवाद अधिकार, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार डी प्रार एम, सेंट्रल रेलवे, जासी के प्रबंधताल के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीयोगिक विवाद में केन्द्रीय सरकार श्रीयोगिक अधिकारण, नई विल्सनी के प्रबंध को प्रकाशित करनी है, जो केन्द्रीय सरकार को 4-9-89 को प्राप्त हुआ था।

S.O. 2450.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure. In the industrial dispute between the employers in relation to the management of D.R.M., Central Railway, Jhansi and their workmen, which was received by the Central Govt. on the 4-9-1989.

ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL,
NEW DELHI

I.D. No. 48/88

In the matter of dispute between :

1. Shri Radha Raman and 28 others through the Secretary, Indian National Trade Union Congress (U.P.) 2/236, Namnair, Agra.

Versus

The Chief Traction Power Controller,
Central Railway, Agra Cantonment

APPEARANCES :

Shri Surinder Singh—for the workmen.
None—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-41011/10/87-D.II(B) dated 21st March, 1988 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Divisional Railway Manager, Central Railway, Jhansi in not regularising 29 workmen (As shown in the Annexure) is legal/justified ? If not, to what relief the workmen concerned are entitled to ?"

2. As per the statement of claim, filed by the Union of the workmen, its case in brief is that the 29 workmen covered by this reference have been working with the railways for the last about 10 years against the permanent post and in accordance with the judgments given by the Hon'ble Supreme Court of India and under the Industrial Disputes Act, these workmen acquired a right to be regularised against those posts. However, the Management has failed to regularise them and instead has been appointing employees by direct recruitment against those permanent posts. This action on the part of the Management is illegal and unjustified and hence this dispute.

3. Several registered notices were issued to the Management and it is only after that on 22-8-88 Shri K. M. Sharma with Shri S. M. Nayar appeared on behalf of the Management and they were supplied the copy of the statement of claim and the case was adjourned for filing of written statement by the Management. On the next date 3-10-88 written statement was not filed although Shri K. M. Verma was present for the Management and requested for adjournment. On the adjourned date 21-11-88 none appeared on behalf of the Management. Thereafter the case was adjourned for 5 dates but the Management did not care to put in appearance nor did it file its written statement. It is, therefore, presumed that the Management has no defence to offer. On the other hand the Union has filed its affidavit alongwith documents Ex. W1 to W-50. As evidence produced by the Union goes unrebutted, its case stands proved. Therefore, the action of the Management in not regularising 29 workmen covered by this reference is held to be not legal and not justified and it is directed that these workmen shall be regularised against their respective post held by them, within one month of the enforcement of the award. This reference stands disposed of accordingly.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Govt. for necessary action at their end.

22nd August, 1989.

G. S. KALRA, Presiding Officer
[No. L-41011|10|87-D.II(B)]

नई दिल्ली, 13 सितम्बर, 1989

का.प्रा. 2451:—श्रीधोगिक विवाद—अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे लखनऊ के प्रमंतनक के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुभव में निर्दिष्ट श्रीधोगिक विवाद में केन्द्रीय सरकार श्रीधोगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार द्वारा 1-9-89 को प्राप्त हुआ था।

New Delhi, the 13th September, 1989

S.O. 2451.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Lucknow and their workmen, which was received by the Central Government on the 1-9-1989.

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING OFFICER
CENTRAL GOVT. INDUSTRIAL TRIBUNAL, KANPUR

I.D. No. 141 of 1986

In the matter of dispute between :
Sh. B. D. Tewari
Zonal Working President
Uttar Railway Karamchari Union
96/196 Roshan Bajaj Lane
Ganesh Ganj, Lucknow.

AND

The Assistant Engineer II
Northern Railway Charbagh
Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-41012|54|85-D.II(B) dated 4th November, 1986, has referred the following dispute for adjudication to this Tribunal :—

Whether the Assistant Engineer II Northern Railway Charbagh, Lucknow is justified in terminating the services of Shri Sheo Person working under the PWI Barabanki ? If not, to what relief Shri Sheo Person is entitled to and from what date ?

2. The industrial dispute on behalf of the workman has been raised by Shri B. D. Tewari, in his capacity as Zonal President, Uttar Railway Karamchari Union (hereinafter referred to as Union).

3. The case of the Union, is that the workman was a casual Khalasi under the Asstt. Engg. II N. R. Lucknow. He joined service on 15-9-72 and upto 14-9-73, the workman completed 240 days of working. In the year 1976, he was empanelled as S. C. candidate. He continued working intermittently upto 23-4-82. On 23-4-82, he was sent for medical examination to D.M.O.N.R. LKO. Since the medical memo was not signed by the proper attesting authority he was asked to go back to Asstt. Engg. II for obtaining signatures of the proper attesting authority. The medical memo was delivered by the workman in the office of AEN II but, thereafter he was not given any duty. The Union alleges that persons junior to the workman were retained in service while he was not given any duty. At the time of his retrenchment no notice or notice pay nor retrenchment compensation was paid to him. Thus there was violation of the provisions of Secs 25 F, 25G and 25H of the I.D. Act. The Union, has therefore, prayed that the workman be reinstated with full back wages and consequential benefits.

4. The management while admitting the fact that the workman was sent for medical examination to D.M.O. N. R. Lucknow against the panel of S. C. quota deny that the workman ever returned the medical memo to the office of the AEN II Lucknow. Since, so far the workman has not been declared medically fit in its absence he is entitled to no relief. The management further deny that the workman joined service on 16-9-72 or completed 240 days of working upto 16-9-73. The management also deny that the workman had worked upto 23-4-82. In fact there is no record that the workman ever worked in any Unit. Therefore, the question of terminating his services or payment of retrenchment compensation does not arise. According to Rule 2318 of the Indian Railway Manual, the temporary status is acquired by a workman only on the availability of a vacancy. The Quota of Scheduled Caste with AEN-II Lucknow being full the workmen cannot be given only employment. The management further plead that the reference is without jurisdiction and is also defective.

5. In its rejoinder, the Union has almost reiterated the same facts as stated by it in the claim statement.

6. In support of its case, the Union has filed the affidavit of the workman and a number of documents and in support of their case, the management has filed the affidavit of Shri Pyarey Lal Asstt. Suptd. in the office of AEN II Lucknow and a number of documents.

7. Ext. M-11, is the copy of extract from page 218 of the casual labour register maintained by PWI(L) Lucknow. It has been filed by the management with their application dated 27th April, 1989. It shows that the workman joined service on 14th January, 1971 and worked for 265 days upto 18th December, 1971. The same thing comes out from the copy of casual labour card filed by the Union with its application dated 9th September, 1988. The only difference between the casual labour card and Ext. M-11 is that in the casual labour card entries of 1972 also appear. In 1972, he appears to have worked from 24th January, 1972 to 22nd February, 1972, 16th May, 1972 to 14th June, 1972 and 16th September, 1972 to 15th October, 1972.

8. Thus from the identical nature of evidence adduced by both the sides it comes out that the workman joined service for the first time on 14th January, 1971, and had completed more than 240 days of working during 1971.

9. Ann. 4 to the affidavit of the workman is the copy of medical memo, dated 23rd April, 1982. The management has also filed its copy and it is ext. M-4. The medical memo shows that the name of the workman appeared at serial No. 15 of the approved panel of Scheduled Caste candidates and that he was referred to D.M.O. Northern Railway, Lucknow for medical examination. Ann. 5 to the affidavit of the workman is the copy of letter dated 11th May, 1982 from the Medical Officer Railway Hospital, Lucknow to AEN-II, Lucknow. The letter shows that 5 candidates including the workman who were sent for medical examination were sent back without their medical examination on the ground that the signatures of the attesting authority on their photographs were not legible. In para 7 of his affidavit dated 8th April, 1988, the workman has averred that the said letter of the medical officer was submitted by him in the office of the AEN-II. It was received by the dealing clerk who thereafter did not take him on duty. Then in his cross examination at page 2, the workman has deposed that he was given medical memo on 23rd April, 1982 by Shri Gupta AEN-II. The same was returned to him on 11th May, 1982 on the ground that the signature of the attesting authority on his photographs were not legible. He was asked to obtain clear and legible signature on his photographs. According to him he delivered the medical memo to Shri Pyare Lal, who assured him that after meeting the objection, the same would be given to him. Despite the fact that he had visited Shri Pyare Lal several times, Shri Pyare Lal did not give him the medical memo.

10. The management witness Shri Pyare Lal, was also questioned on this point. In his affidavit he has deposed that he has been working in the office of Assistant Engineer-II since September, 1978. He has further deposed in his affidavit that the workman obtained medical memo from him on 22nd April, 1982, or near about that date. He denied that the medical memo was ever delivered back to him by the workman. In his cross examination he has deposed that neither the workman nor 4 other persons named, in annexure 5 to the affidavit of the workman came to see him. He has expressed his ignorance on the point whether or not the other 4 persons named in annexure 5 are working in Railway. According to him he did not write to D.M.O. to enquire as to what happened to all these 5 persons who were sent for medical examination to D.M.O. He says that if these 5 persons had been found medically fit they would have approached him. He states that he also did not inform AEN-II that these five persons have not come to him. Since, these persons did not turn up to him, the question of keeping their names on the Muster Rolls did not arise.

11. To me the evidence of the management witness does not appeal to mind. There is no documentary evidence from the side of the management that annexure 5 to the affidavit of the workman is a fake document. It is a well known fact that screening is done for the purposes of absorption of casual labour in regular vacancies and if a casual labour comes out successful in the screening, he is sent for medical examination. In the circumstances, in the event of the workman having been sent back for obtaining legible signature of the attesting authority on his photograph, he would not have kept silent. He would have surely met the dealing clerk for removal of the defect. He and others would not have taken the matter lightly. Rather from the replies given by the management witness I find that there was definitely something wrong on the part of the management witness. But for indifferent attitude adopted by the dealing clerk such an unpleasant situation would not have arisen nor the workman would have been put to such a great inconvenience.

12. I, therefore, hold that the workman, who had worked for 265 days during 1971 was sent for medical examination for absorption in regular vacancy but on account of indifferent attitude adopted by the dealing clerk Shri Pyare Lal of the office of the AEN-II Lucknow he could not secure appointment in regular vacancy.

13. The case of the union is that the workman was empanelled in 1976 and it is proved from annexures III and IV to the affidavit of the workman. The workman in his affidavit has deposed that he worked upto 23rd April, 1982 intermittently. The management without verification of the record in para 6 of their written statement denied that the

workman joined service on 16th September, 1972 or completed 240 days of working upto 16th September, 1973. The management has gone so far to say that there was no record with the management regarding workman's working in any Unit. But as has been seen above all these stand belied by some of the own documents of the management.

14. By means of application dated 8th April, 1988, the Union summoned from the management, the casual labour register of the period 1972 to 1982. The joint inspection report filed on 9th September, 1988 shows that the registers of the said periods were not produced by the management for joint inspection. If record of 1971 could become available, I fail to understand why the record of the subsequent period could not become available. In the circumstances an adverse inference will have to be drawn against the management. Non giving of work after 23rd April, 1982 for such a long period goes to show that the services of the workman were terminated w.e.f. 24th April, 1982. There is no evidence nor it is the case of the management that the workman was given any notice or notice pay and paid retrenchment compensation. Therefore, it is a clear case of violation of section 25-F I.D. Act. The Union has also taken up the case, that the management also violated the provisions of section 25G I.D. Act. In the claim statement the names of those who were junior to the workman are not given. Even in the rejoinder no such names were disclosed by the Union. It was for the first time that in para 13 of his affidavit dated 8th April, 1988, that the workman gave the names of two persons. Although the panel list of Scheduled Caste candidates was made available at the time of joint inspection, it is not found stated in the joint inspection note that the persons named by him in his affidavit were junior to the workman. I, therefore, hold that the Union has failed to prove its case on this point.

15. Hence, from the above discussion of evidence I hold that the action of the Assistant Engineer-II, Northern Railway, Charbagh Lucknow, in terminating the services of Shri Sheo Porson is not justified. He is entitled to be reinstated in service with full back wages and continuity of service. He shall be sent for medical examination for absorption in regular vacancy belonging to Scheduled Caste Quota and on his being found medically fit, he shall be given the same seniority which he would have got had he been declared medically fit in the year 1982.

16. The reference is answered accordingly.

Let six copies of this award be sent to the Ministry of Labour for its publication.

Dated : 21-8-89.

ARJAN DEV, Presiding Officer
[No. L-41012/54/85-D.II(B)]

का.प्रा. 2452.—प्रौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, विद्याम और प्रोफेशनल नेवाइडा, के प्रबंधनकार के मध्य नियोजकों और उनके कर्मकारों के बीच, अनुसंधान में निर्विट प्रौद्योगिक विवाद में प्रौद्योगिक अधिकरण, चड्डीगढ़ के पक्षांत को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-9-89 को प्राप्त हुआ था।

S.O. 2452.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Beas Dam Project, Talwara and their workmen, which was received by the Central Government on the 5th September, 1989.

ANNEXURE

BEFORE SHRI M. S. NAGRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. I.D. 88/85

PARTIES :

Employers in relation to the management of Beas Dam Project.

AND

Their Workman—Sham Singh.

APPEARANCES :

For the workman—Shri M. L. Basoor.

For the management—Shri B. S. Puri.

AWARD

Dated, the 23rd August, 1989

On a dispute raised by Sham Singh against the Beas Dam Project, Central Government had vide No. L-42012(27)/84-D.II(B) dated 3rd September, 1985 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Beas Dam Project in Superannuating Shri Sham Singh S/o Shri Gaquir Singh Ex. Vibrator Operator w.e.f. 30th June, 1983 is justified and legal if not, to what relief is the workman entitled to?”

2. Case of the workman is that his date of birth is 1st April, 1932 and as such the year of retirement is 1992. His services were terminated with effect from 1st July, 1983 under the guise of retirement taking his date of birth as on 12th June, 1923. He assailed the order dated 30th June, 1983 passed by X.E.N. Personnel Division rejecting request of the workman to effect change/correction in his date of birth.

3. The management in its reply has taken plea that workman had himself furnished his date of birth as 12th June, 1923 in the declaration form submitted by him to the Beas Dam Authorities and after signing of declaration/attestation on 13th July, 1964 he never applied for change in the date of birth till May, 1983 after receipt of notice dated 31st December, 1982 of his superannuation.

After both the parties had led evidence Shri M. L. Basoor Advocate representative of the workman has made statement that workman does not want to pursue the reference. In view of the non-prosecution of the case by the workman a No Dispute Award is returned.

Chandigarh.

23-8-1989.

M. S. NAGRA, Presiding Officer
[No. L-42012/27/84-D.II.(B)]

का.प्रा. — 2453 श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमत्य में, केन्द्रीय सरकार उत्तर रेलवे सख्तक के प्रबंधतंत्र में सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविट श्रीयोगिक विवाद में केन्द्रीय सरकार श्रीयोगिक अधिकरण कानपुर के पंचायट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-9-89 को प्राप्त हुआ था।

S.O. 2453.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to

the management of Northern Railway, Lucknow and their workmen, which was received by the Central Government on the 1-9-1989.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 60 of 1988

In the matter of dispute between :

The Zonal Working President, Uttar Railway Karamchari Union, 96/196, Roshan Bajaj Lane, Ganeshganj, Lucknow.

AND

The Divisional Railway Manager Northern Railway, Hazratganj, Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-41011/35/86-D.II (B) dated 10-5-88, has referred the following dispute to this Tribunal for adjudication :—

Whether the Divisional Railway Manager, Northern Railway, Lucknow was justified in terminating the services of Shri Vinod Kumar and 7 others (as listed below) with effect from 16-11-84 ? If not, to what relief the workmen concerned are entitled ?

1. Shri Ramesh Kumar,
2. Shri Ram Sagar,
3. Shri Sajiwani Lal
4. Shri Santosh Kumar
5. Shri Ram Roop Verma
6. Shri Om Prakash
7. Shri Anup Kumar Singh.

2. The present case was fixed on 5-7-89 for cross examination of the workman. The workman had already filed his affidavit evidence on the last date i.e. on 26-5-86 at camp Lucknow. But despite information that his cross examination in the case is to be done on 5-7-89, neither he appeared nor moved any application for adjournment. It therefore seems that he is not interested in prosecuting the case.

3. Hence, in the circumstances of the case a no claim award is given against him.

4. Reference is answered accordingly.

Let six copies of this award be sent to the Government for publication.

ARJAN DEV, Presiding Officer
[No. L-41011/35/86-D.II (B) (Pt.)]
HARI SINGH, Desk Officer

नई शिल्पी, 11 अक्टूबर, 1989

का.प्रा. — 2454 श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमत्य में, केन्द्रीय सरकार, मैसां भारत कोर्टिंग कोल फिल्ड की सालाना कानूनी के प्रबंधतंत्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविट श्रीयोगिक विवाद में केन्द्रीय सरकार श्रीयोगिक अधिकरण, (स. 1), घटनाव के पंचायट और प्रकाशित करती है।

New Delhi, the 11th September, 1989

S.O. 2454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Salanpur Colliery of M/s. Bharat Coking Coal Ltd. and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 17 of 1988

PARTIES :

Employers in relation to the management of Salanpur Colliery of M/s. Bharat Coking Coal Limited,

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri S. Bose, Secretary, Rashtriya Colliery Mazdoor Sangh.

STATE : Bihar

INDUSTRY : Coal

Dated, the 18th August, 1989

AWARD

By Order No. L-20012(148)/83-D.III (A), dated, the 29th September, 1983, the Central Government in the Ministry of Labour, referred this dispute to Central Government Industrial Tribunal No. 3, Dhanbad. Thereafter the dispute has been transferred vide Ministry's Order No. S-11025(7)/87-D.IV (B), dated 31st December, 1987/12th January, 1988 to this Tribunal for adjudication. The schedule of this dispute runs as follows :

"Whether the demand of Rashtriya Colliery Mazdoor Sangh that the management of Salanpur Colliery of Messrs Bharat Coking Coal Limited should treat the Clay Cartridge makers listed in the Annexure below as their workmen and pay them Category I wages is justified ? If so, to what relief are these workmen entitled and from what date ?"

ANNEXURE

Sl. No. Name of the Workmen

1. Shri Lal Behari Singh
2. Shri Nagendra Prasad
3. Shri Lalan Singh
4. Shri Dinesh Prasad
5. Shri Surendra Pr. Gupta
6. Shri Satar Ahmed
7. Shri Jayesh Kumar Rate
8. Shri A. N. Chaube
9. Shri Ram Ran Bijai Singh
10. Shri Rahmat Hussain
11. Shri Sultan Ahmed
12. Shri Sobhnath B. P.
13. Shri Rajendra Prasad

Sl. No. Name of the workmen

14. Shri Shankar Prasad
15. Shri Birendra Napit
16. Shri Balram Singh
17. Shri Tahir Hussain
18. Shri Punram B. P.
19. Shri Alok Sarkar
20. Shri Shri Gulam Rasul
21. Shri Kadir Khan
22. Shri Jiyauddin
23. Shri Taburan Bibi
24. Shri Sakina Bibi
25. Shri Ramjee Gorwami
26. Shri Md. Hanif
27. Shri Miam Lal
28. Shri Pramod Kumar
29. Shri Mukesh Kumar
30. Shri Sudhakar Pandey
31. Shri Md. Saqir
32. Shri Rabindra Choubey.

2. The case of the concerned workmen, Shri Lal Behari Singh and 31 others as appearing from the written statement submitted by the sponsoring union, Rashtriya Colliery Mazdoor Sangh, details apart, is as follows :

The concerned workmen are engaged in permanent nature of job in production of coal for the mine since early July, 1975. Clay Cartridges are one of the essential commodities which are required by the management of the Colliery for production of coal through system of mining known as solid blasting. The management of M/s. B.C.C. Ltd. have got Clay Cartridge Mazdoors in different Collieries and they are paid on piece-rated basis or an time-rated basis which is lowest grade in Category I. Piece-rated mazdoors are paid group-I wages on a workload of 750 cartridges per head per day per shift of 8 hours. Clay cartridges are prepared within colliery premises near the entrance of the mine i.e. pit-head or incline as the case may be and entire job is done by the concerned workmen at different points in groups according to requirement of the management. The job of the workmen is supervised by the Supervisory Personnel of the management and that the work is done under the control of the management so that the clay cartridges of appropriate shape and size and required quantity are manufactured everyday. The tools and implements, earth and water required for the manufacture of the cartridges are supplied by the management and it is only the services of the concerned workmen which are required individually for the benefits of the management. Clay cartridges which are required in the mine are not sold in the market as a general commodity and they cannot be purchased from any shop or market and private manufacturer unless the same is done within the colliery premises under the eyes of the management personnel. It is an essential commodity linked with each hole of blasting for production of coal which is the main purpose and sole function of the colliery administration. Salanpur Colliery of M/s. B.C.C.L. is an amalgamated unit of 7-8 private collieries which existed prior to nationalisation and hence this colliery is one of the biggest unit of coal producing collieries of Area No. IV. Since the concerned workmen are rendering services or selling their labours for the benefit of the management, it is incumbent upon the management to pay them at least minimum wages of Category-I (time-rated) as available in the Coal Mining Industry. One of the reasons for Nationalisation of Coal Mining Industry is to protect the employed persons from the ruthless exploitations they were suffering from the hands of the private owners. The concerned workmen are entitled to all benefits of a permanent employee under M/s. B.C.C. Ltd. It is alleged that M/s. B.C.C. Ltd. has resorted to

discrimination between workmen and workmen by not treating the concerned workmen as permanent employee of Salanpur Colliery and also not paying them minimum rate of wages as is being paid to other similar employees in several other collieries. It is also alleged that entire action of the management is arbitrary, motivated and illegal and is an act of unfair labour practice. The sponsoring union has asserted that the demand of the concerned workmen for treating them as permanent employees of Salanpur Colliery as Clay Cartridge Makers and for paying them Category-I wages atleast is justified.

3. The case of the management of M/s. B.C.C. Ltd., as disclosed in the written statement, is as follows :

The present reference is not maintainable and there exists no relationship of employer and employee between the management of M/s. B.C.C. Ltd. and the concerned persons. The management never engaged the concerned persons as clay cartridge makers at any time. The concerned persons are trying to enter into the service of the management by adopting unfair means. Solid blasting system has been introduced in the year 1975 after obtaining permission from the Director General of Mines Safety, Dhanbad, by letter dated 9-7-75. The management required explosive cartridges, detonators, safety fuses, clay-cartridges and other materials on regular basis for raising coal by solid blasting and it started purchasing all materials required for solid blasting from different sources. Explosive cartridge, detonators and safety fuses are manufactured in specialised licensed factories whereas clay cartridges are manufactured by local people on the surface near their houses. Clay cartridges are nothing but earth pellets cylindrical in shape of about 2.5 cm in diameter and about 15 cm in length and are made of earth abundantly available in coal field areas after drenching the same with water. This gave opportunity to some local people to prepare clay cartridges and to sell the same to adjoining collieries and to earn profits out of the sale proceeds. Clay cartridges are purchased by the collieries as store materials. Like clay-cartridges, collieries purchase country tiles. The adjoining villagers make country tiles and on requirement from the collieries, they supply these to the collieries. Both for clay-cartridges and country tiles the colliery management do not exercise their supervision and control in any form. The villagers manufacture these materials on their own initiative and subject to the requirement of the adjoining collieries, sell them to the collieries and earn profit out of the sale proceeds. The price of these materials is fixed subject to the negotiation between the parties. In this way, bricks are manufactured in the coalfield area and the same are sold in the collieries depending on their requirement. The management of the colliery of Salanpur purchases clay cartridges from different sources. S/Sri Ismail Mia and Ganesh Prajapati have been selling clay cartridges to the management and they are being paid at the rate of Rs. 7.50 per thousand cartridges so supplied. They manufacture clay cartridges with the help of their family members. The management does not exercise any control over their work. The implements required in manufacture of clay cartridges are 'kevali', 'Cainta' and 'cane basket' which the suppliers purchase themselves from the open market. Since clay cartridges are locally available to meet the full requirements of the collieries, there is no need to employ workmen for manufacturing the same. Under the facts and circumstances the management has prayed that an award be passed holding that the concerned persons are not entitled to any relief.

4. In rejoinder to the written statement of the management the sponsoring union has stated that the present industrial dispute is maintainable and the statement made by the management in its written statement is motivated and is an attempt to by-pass the main issue involved in the

present industrial dispute. The union has asserted that the clay cartridges are made at premises of the colliery with all materials supplied by the management so that the operation of coal production is not hampered. The union has also asserted that clay cartridges are manufactured under the direct control and supervision of the management and all the implements for manufacturing the same are also supplied by the management.

5. In the rejoinder to the written statement of the sponsoring union the management has denied and disputed the contentions made therein and has submitted that many collieries purchase clay cartridges from local people, but in some collieries where clay cartridges are not available from local market workmen are employed for manufacturing them.

6. Neither the sponsoring union nor the management has adduced any oral or documentary evidence in support of their respective cases.

7. It is an irrefragable position that Salanpur Colliery is Coking Coal Mine and was nationalised with effect from 1-5-1972. The sponsoring union has stated that the present Salanpur Colliery of M/s. B.C.C. Ltd. is an amalgamated unit of 7/8 private Collieries which existed prior to nationalisation, and that the present Salanpur Colliery is one of the biggest units of coal proceeding collieries of Area No. IV of M/s. B.C.C.L. This statement has not been specifically denied by the management. This being so, the conclusion is reached that Salanpur Colliery is a Coking Coal Mine which was nationalised with effect from 1-5-72 and that Salanpur Colliery is an amalgamated unit of 7/8 Collieries which existed prior to nationalisation and that the present Salanpur Colliery is one of the biggest coal proceeding units of M/s. B.C.C. Ltd. in Area No. IV.

8. The sponsoring union has claimed that the concerned workmen has been supplying clay cartridges to Salanpur Colliery. This has not been disputed by the management. But the management has disputed that supply of clay cartridges is done individually on payment of agreed rate of price and so there existed no relationship of employer and employee between the management and the concerned workmen. Nevertheless it appears from the pleadings of the management that solid blasting was introduced in the Colliery in 1975 and that clay cartridges and other materials, such as, explosive cartridges, detonators, safety fuses are required for solid blasting for production of coal. Thus, it is seen that clay cartridges are inter-linked with the production of coal.

It has been contended by the management that like clay cartridges, colliery purchases country tiles and that the adjoining villagers make country tiles and supply them to the colliery on requirement.

9. Even if the position is so, there can not be any analogy between supply of clay cartridges and supply of country tiles because of the fact that country tiles are not required directly for production of coal while clay cartridges are directly required for production of coal by solid blasting. That apart, clay cartridges, admittedly, are required to be done in proper size and shape for solid blasting.

10. It has been asserted by the sponsoring union that that clay cartridges are prepared by the concerned workmen in the premises of the Colliery and that the implements for production of clay cartridges are supplied by the management. This has been disputed by the management. But it can not be denied that regular supply of clay cartridges are required for maintaining the normal production of coal.

11. Shri B. Joshi, Advocate, for the management has submitted that the management has decided to take into employment Clay Cartridge Mazdoors as per requirement out of the persons engaged in supplying clay cartridges according to seniority and after deciding genuinity. He has further submitted that the case of the concerned workmen will be considered by the management after they appear in interview and fulfil the above conditions. Shri S. Bose, authorised representative of the concerned workmen has readily accepted this position. This being so, the following award is rendered for resolving the present dispute.

12. Accordingly, the following award is rendered—

the demand of the sponsoring union, Rashtriya Colliery Mazdoor Sangh, for employment of the concerned workmen as Clay Cartridge Mazdoors of Salanpur of M/s. B.C.C. Ltd. is justified. But the management is at liberty to take them into employment as per its requirement and according to their seniority and genuinity provided they appear in interview to be held by the management within two months from the date of publication of the award.

In the circumstances of the case I award no cost.

S. K. MITRA, Presiding Officer
[No. L-20012(148)/83-D.III(A)/IR (Coal-1)]

कांग्रेस 2455 :—श्रौतोंगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार में सर्व ई.वी.सी. मार्डी. बर्मो, बाकाशर बर्मो, जिला गिरिधा के प्रबन्धन से सम्बद्ध नियंत्रकों आर उनके कर्मकारों के द्वारा, अनुबंध में निर्विट प्रौद्योगिक विवाद में केन्द्रीय सरकार श्रौतोंगिक अधिकरण, (स. 2), धनबाद, के पावड का प्रकाशित करती है।

S.O. 2455.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of D.V.C. Mines, Bermo, P.O. Bermo, Distt. Giridih and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 200 of 1987

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of D.V.C. Bermo Mines, P.O. Bermo, Distt. Giridih and their workmen.

APPEARANCES :

On behalf of the workmen : Shri M. K. Sengupta, Advocate.

On behalf of the employers : Shri R. S. Murthy, Advocate.

STATE : Bihar INDUSTRY : Coal

Dated, Dhanbad, the 14th August, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(14)/87-D.IV(B), dated, the 3rd August, 1987.

SCHEDULE

"Whether the action of the management of D.V.C. Mines Bermo, P.O. Bermo, Distt. Giridih in denying promotion/regularisation of S/Sri Jagannath, Sitaram, Mani Ram, Banshidhar and Jainer Das, Surface Sirdars as Loading Supervisor Grade-C under NCWA-III for the last 12 years is legal and justified? If not, to what relief are the concerned workmen entitled?"

The case of the workmen is that the 5 concerned workmen S/Sri Jagannath, Sitaram, Mani Ram, Banshidhar and Jainer Das, have been working as Loading Supervisor for the last 12 years under the management of D.V.C. Mines, Bermo. Their prime duty is to ensure and supervise proper loading of coal besides other duties. They are covered by NCWA-III and before that they were covered by NCWA-I and II. NCWA-III has prescribed technical and supervisory Grade-C in the scale of pay of Rs. 742-40-1062-45-1422 for the job of Asstt. Supervisor. The management of D.V.C. Mines Bermo in a whimsical manner gave a peculiar nomenclature of the concerned workmen as Surface Sirdar. The said nomenclature is not available in any job description of NCWAs. The management of D.V.C. Mines Bermo has arbitrarily fixed the pay for the concerned workmen in the scale of pay of Rs. 578-18-522-23-614 (basic) a grade which has been fixed by NCWA-I for monthly rated Technical and Supervisory Grade-D on 7-1-76. The concerned workmen made repeated representation to the management of D.V.C. Mines, Bermo for their proper placement to the Technical Grade and Supervisory Grade-C in consideration of their actual nature of job of Loading Supervisor being actually performed by them. But the management did not conceded to their request. Thereafter the union of the concerned workmen namely D.V.C. workers union raised an industrial dispute before the ALC(C) (Hazaribagh who took up the matter in conciliation with the management. The conciliation ended in failure and thereafter on failure report being sent by the Conciliation Officer to the Central Government, the present reference has been made to this Tribunal for adjudication. On the above facts it is prayed that it be held that the unilateral action of the management to place the concerned workmen in Grade-D is unjustified and the management be directed to regularise the concerned workman as Loading Supervisor and allow them the scale of pay of Grade-C in consideration of their actual nature of job being performed by them with full back wages and other emolument with effect from 7-1-76.

The case of the management is that the reference is bad in law and is not maintainable as the subject matter of the dispute does not fall within the scope of "Industrial Dispute" as defined in Section 2(k) of the I.D. Act. The Damodar Valley Corporation (hereinafter referred to as D.V.C.) is statutory corporation constituted under an enactment of Parliament for generating and distributing power both thermal and hydel in the States of Bihar and West Bengal in the area known as Damodar Valley. It is wholly financed by the Central Government. The corporation have thermal power house in the State of Bihar at Bokaro and Chandrapura. These thermal power houses require coal for generation of electricity. The D.V.C. has captive coal mine at Bermo in Giridih District at a distance of about 15 K.M. from Bokaro Thermal Power Station which supplies entire produced coal to the Bokaro Thermal power house. The coal is transported from the Bermo Mine to Bokaro Thermal power station by aerial ropeway. The additional requirement of Coal for Bokaro Thermal power is purchased from the neighbouring mines of CCL. The Bermo Mines of D.V.C. do not have any railway siding for despatch of coal by rail to Bokaro Thermal power station. The post of loading Supervisor existing in the coal Mines of CCL and BCCL who despatch coal produced from their mine by Railway wagons through sidings established adjacent to their coal Mine. At these sidings the railway places rake or a part of rake for loading coal. For ensuring the maximum utilisation of the railway wagons the railways specify from time to time the loading time in terms of hour for loading the empty wagons with coal. After the placement of the rake at the railway siding coal has to be loaded within the specified period otherwise the colliery management has to pay heavy amount of demurrage for delayed loading or non-loading of the wagons. According to the stipulation made by the railways, the wagons have to be loaded with correct quantity of coal according to the capacity of the wagons. If there is excess or overloading of coal as against the specified loading capacity of the wagons, the colliery management has to pay heavy penalties to the railway. The railway wagons are loaded by wagon loaders whose numbers run into several hundreds at a particular time. The wagon loaders have to be allotted to different wagons for purpose of loading. Their work has also to be supervised. The quantum of piece-rated work done by them

has to be recorded and measurement slips have to be issued to them, for the purpose of payment of wages to them. The attendance of wagon loaders working in the railway sidings has to be coordinated and supervised. The steam slack and rubble have to be separated from the run of mine and they have to be stacked separately. The separation of stacking are also done by wagon loaders and work has to be allotted to them for this purpose and quantum of such work done by each wagon loader has also to be measured and recorded for the purpose of payment of wages to them. The loading Supervisor has to ensure that the correct type/grade of coal is loaded into the wagons according to the requirement of the consumers. Labels and destination cards have to be prepared and fixed on each wagon and railway receipts have to be prepared. All these jobs have to be attended to by the Loading Supervisor who is incharge of the Railway siding and all activities which are carried at the siding. The loading supervisor has also to ensure that adequate number of workers for different categories are available. The loading supervisor is assisted in his work by the Asstt. Loading Clerk, Munshi and Loading Clerk.

The Central Wage Board for the Coal Industry to the extent accepted by the Central Government placed the loading Supervisor/Inspector in the pay scales applicable to Clerical Grade-I. The same categorisation for this category of workers in the clerical grade was retained by NCWA-I which came into effect from 1-1-75. The D.V.C. is not a party to the National Coal Wage agreements nor it is represented on the JBCCI. The D.V.C. has never committed or agreed that it would make applicable to its workers the provisions of NCWAs or extend the benefits thereunder to its workers. However, certain selected provisions from the said agreement have been made applicable by the management of D.V.C. to the workers by specific orders issued by the Head Office of the Corporation situated at Calcutta. The management of D.V.C. made applicable to the workers of the Bermo Mines the pay scales and allowance laid down in NCWA-III. Since the management of D.V.C. has no railway siding for despatch of coal there is absolutely no question of its employing any loading Supervisor in Grade-C under NCWA-III as there is no such work in Bermo Mines. The management did not ever agree or provide for promotion of workers to higher posts/grade on the basis of years of service put in by them in the lower post. As such there is no question of promoting or regularising the concerned workmen as Loading Supervisor Grade-C. The D.V.C. has no requirement for the post of Loading Supervisor and such they have not any sanctioned post of any Loading Supervisor.

The concerned workmen were originally working as Coal Cutters in piece-rated category in Bermo Mines. During the year 1975 the sponsoring union took up the case of the concerned workmen and requested the management for giving them opportunity to work as Surface Sirdars. Actually there was no post of Surface Sirdar and the management had no requirement for such personnel but the management agreed in order to maintain good relations with the sponsoring union to create 5 posts of Surface Sirdar in Technical Grade-D which is equivalent to Clerical Grade-II in so far as pay scales are concerned. The concerned workmen were placed in Technical Grade-D and their duties and responsibilities were laid down by an office order dated 6-5-1975. The duties assigned to the concerned workmen as Surface Sirdars are mainly manual which is far inferior to the duties and responsibilities required to be performed by even the Munshies working in the Mine who are in Clerical Grade-III. Considering the back ground of the case the nature of duties assigned to the concerned workmen and also keeping in view the fact that there is no railway siding at D.V.C. Bermo Mines, there is no question of the management employing any loading supervisor in Grade-C. Even where there is a railway siding existing in a colliery and coal is despatched by the railway wagons only one Loading Supervisor is required and it is too much to suggest that the management should employ all the concerned workmen as Loading Supervisor. The post of Loading Supervisor in the railway siding is entirely different from that of a surface Sirdar who are working in D.V.C. Bermo Mines. On the above facts it is submitted that the management is not required to promote or regularise the concerned workmen in the post of Loading

Supervisor Grade-C. It is prayed on behalf of the management that it may be held that the management is not required to promote/regularise the 5 concerned workmen to the post of Loading Supervisor and the concerned workmen are entitled to any relief.

The point for decision in this case is whether the concerned workmen are entitled to be promoted/regularised as Loading Supervisor Grade-C under NCWA-III and whether the concerned workmen are entitled to back wages of Loading Supervisor Grade-C with effect from 7-1-76.

The management has examined one witness and the workmen have examined 2 witnesses in support of their respective case. The management has got one document marked as Ext. M-1. The documents of the workmen have been marked Ext. W-1 to W-8.

Admittedly, the D.V.C. Bermo Mine have no railway sidings. MW-1 Shri S. K. Choudhury is working as Supdt. and Agent of D.V.C. Bermo Mines since about 10 years. He has also worked as Loading Supervisor in the railways. He has stated that the Loading Supervisor of the Colliery is incharge of the entire arrangement for the railway siding. He has stated that Bokaro Thermal Power Station is about 15 K.M. from the Bermo Mines of D.V.C. and the production of Bermo Coal Mine is sent to Bokaro Thermal Power Station by serial ropeway and there is no railway siding in Bermo Mine. He has stated about the duties of Loading Supervisor in railway siding and has stated that the duty of Loading Supervisor in Railway siding is to place the railway wagons at the siding, to arrange workers for loading of wagons, to supervise the quality of coal to be loaded in the wagons, to see stacking of different grades of coal at different places, to see that the loading is done in time to save the management from demurrage, to see the quantity of coal loaded in the wagons and to see that the gates of the wagons are properly placed and labelled. He has also stated that the quantity of work done by wagon loaders has to be measured by the Loading Supervisors and measurement slip have to be issued to the wagon loaders for payment of wages to them. MW-1 has tried to distinguish the duties which are performed by Loading Supervisor at the railway siding and the duties of the concerned workmen as Surface Sirdar. MW-1 has stated that there are surface Sirdar in the Bermo Mine and that Ext. M-1 is the circular regarding the duties of Surface Sirdars. He has denied that the Surface Sirdar perform the duties as that of Loading Supervisor in the railway siding of coal. He has stated that the duties of Surface Sirdar is somewhat similar to the duties of Munshies and Tub chackers. He has further stated that in the colliery siding there is one Loading Supervisor in its railway sidings. In cross-examination he has stated that the main duty of Surface Sirdar is the supervision of loading of tubs. He has further stated that it is also the duty of the Surface Sirdar that no stone or shell is loaded in the tubs along with the Coal.

WW-1 is Senior Overman in D.V.C. Bermo Mine and is also Joint General Secretary of D.V.C. workers union, Bermo. He has stated that the duties of the concerned workmen are to supervise the loading of coal in the tubs and trucks. He has also stated that the management has specified the duties and responsibilities of Surface Sirdar vide Ext. M-1. WW-1 has stated that the duties of all the Surface Sirdar is the same. In cross-examination he has stated that there is no post of Surface Sirdar in any other mine. He has admitted that there is no railway siding in Bermo Coal Mine. He has denied that the post of Loading Supervisor is only in the railway sidings and has further stated that according to him the job of loading supervisor as at all places where loading is done either in trucks or in wagons. He does not know if Loading Supervisor is incharge of Loading of wagons at the railway sidings or that Loading Supervisor is incharge of all arrangements in respect of Loading at the railway siding. He also does not know if there is only one Loading Supervisor at the railway siding. He has stated that Surface Sirdar work under Overman and Mining Sirdar and that Mining Sirdar is in Technical Grade-C. WW-2 is one of the concerned workmen Sitaram. He has stated that his job is to get the Coal loaded in the trucks which is carried to Bokaro Thermal power station. He has further stated that his job includes that coal of proper size is loaded in the trucks and no shell and stones are loaded

in the trucks. He has now superannuated. Although he has stated in the examination that he has seen the railway siding where coal is loaded in the wagons but his evidence shows that he had not seen the working of loading of coal in the wagons at Railway siding of a mine. He had to admit that he had not seen the loading Supervisor working in a Railway siding of a mine, and as such he was unable to say if the Loading Supervisor in the Railway siding had to do much writing work. According to him the work of Surface Sirdar and Loading Supervisor is the same. From the evidence of WW-1 and WW-2 it will appear that they had not seen the actual work being performed by Loading Supervisors at the railway sidings of the mine and as such their evidence that the duties being performed by the Loading Supervisor of the Railway sidings of Mine are same as that of Surface Sirdar cannot be believed.

The duties to be performed by the Surface Sirdar is admitted by the parties to have been stated in Ext. M-1 dated 6-5-1975. The duties of the Loading Supervisor in the Railway siding of a Mine is stated in para-7 to para-10 of the W.S. of the management and it is further supported by the evidence of MW-1. On comparison of the duties of Surface Sirdas as stated in Ext. M-1 it appears to be different from the duties of the Loading Supervisor of a Railway siding. It will appear that the duties of a Loading Supervisor in the siding is of greater responsibilities requiring supervision of the wagon loaders so that the Coal may be loaded within the time limit, allowed by the Railway. The Loading Supervisor is over all incharge of the Railway siding who has to distribute work to the wagon loaders, maintain their attendance, keep a record of the work performed by each wagon loader and to give a slip regarding the work done by each individual wagon loader on the basis of which their wages are paid. Moreover there is only one Loading Supervisor to look after the entire work of Loading at the railway siding. In the case of the Surface Sirdar their main duty is to supervise the loading of coal in the tubs and trucks and there is no compelling time limit within which the rakes are to be loaded. Ext. W-4 is a memorandum dated 11-12-76 which shows that the prime duty of the Surface Sirdar are to check proper loading in tubs as also to ensure quality of loading in the tubs i.e. to check that only coal whether lump or loose are loaded in the tubs. Ext. W-2, W-3, W-6 and W-7 will show that the main duty of the Surface Sirdar was to see that the quality of Coal supplied to B.T.P.S. is of good quality and that no shell or stone is loaded in the truck along with the coal. There does not appear that the Surface Sirdar were over all incharge of the loading of coal in the trucks. Ext. M-1 will show in para-5 of the general instructions that the Surface Sirdars were to record all the happenings of their shifts in a note book and to show it and get it signed by the Mines Manager, Asstt. Mine Manager/Coal Sundt./Agent. Thus it will appear that the Surface Sirdar were not overall incharge of the loading of Coal in the trucks and that they were more or less doing the job of Munshi in the Mines and that they were to report any irregularity to their higher authorities whereas the Loading Supervisor at the railway sidings is overall incharge of the siding and does the real supervision work. The job of the Surface Sirdar to see that shells or stones etc., are not loaded in the trucks is not exactly of supervision work but it is a job which requires that the truck loaders do not load stone, or shells in the trucks along with the coal. Although WW-2 has stated that the work being performed by the Surface Sirdar is the same as that of Loading Supervisor, the duties of the Surface Sirdar as stated in Ext. M-1 and the duties of Loading Supervisor as stated in the Written Statement of the management and not denied by the workmen will show that the work loading supervisor of a railway siding is quite different and of great responsibilities than the job of surface Sirdar. Moreover, only one Loading Supervisor has to see the entire working of the Wagon Loading at the railway siding whereas there are about 8 Surface Sirdars who look after the loading of trucks at the Bermo Mine. The Loading Supervisor Loading Inspector are placed in Clerical Grade-I, Pit Munshi, Munshi tub checker are all placed in Clerical Grade-III. WW-1 has stated that Surface Sirdar work under Overman and Mining Sirdar. He has further stated that the Mining Sirdar is in Technical Grade-C which is equivalent to Clerical Grade-I. Ext. W-1 is an office order which shows that the old designation of Munshi Clerical Grade-II was

changed to new designation as Loading Clerk Grade-II. According to WW-1 Surface Sirdar work under Overman and Mining Sirdar. MW-1 has stated that the job of Surface Sirdar is somewhat similar to the job of Munshi and Tub checker. Thus from the above evidence of WW-1 and MW-1 it will appear that the Surface Sirdar work under Overman and Mining Sirdar who are placed in Technical Grade-C equivalent to Clerical Grade-I and as such the concerned workmen working as Surface Sirdar under Overman and Mining Sirdar cannot claim supervisory Technical Grade-C equivalent to Clerical Grade-I. Moreover, the duties of Surface Sirdar are more akin to that of Munshi who are placed in Clerical Grade-II and thus the placing of the concerned workmen as Surface Sirdar in Technical Grade-D which is equivalent to Clerical Gr.-II does not appear to be unjustified. Taking all the facts into consideration it appears that the concerned workmen who are performing the duties of Surface Sirdar are not doing the job of Loading Supervisor as that of Railway siding and as such the claim of the workmen for their regularisation as Loading Supervisor Grade-C under NCWA-III is not justified. So far the question of promotion of the concerned workmen to the post of Loading Supervisor Technical Grade-C is concerned, it will appear that there is no post of Loading Supervisor in D.V.C. Bermo Mine and as such it is not possible for this Tribunal to direct the management to promote the concerned workmen to the post of Loading Supervisor Technical Grade-C. The matter of promotion is management's prerogative and the Tribunal cannot direct the management to promote the concerned workmen to a post which is not in existence. Accordingly I hold that the concerned workmen are not entitled to be promoted/regularised as Loading Supervisor in Technical and Supervisor Grade-C in NCWA-III. I further hold that the concerned workmen are not entitled to back wages of Loading Supervisor Technical Grade-C with effect from 7-1-76.

In the result, I hold that the action of the management of D.V.C. Bermo Mine in denying promotion/regularisation to the 5 concerned workmen as Loading Supervisor in Technical Grade-C under NCWA-III for the last 12 years is neither legal nor justified and accordingly the concerned workmen are entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer
[No. L-24012(14)/87-D.IV(B)/IR(Coal-I)]

का.आ. 2456.—श्रौद्धोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण के द्वितीय सरकार, मैसर्सं भारत कोर्किंग कॉल लिमिटेड की गोविन्दपुर कोलियरी के प्रबंधतात्व से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रौद्धोगिक विवाद में केन्द्रीय सरकार श्रौद्धोगिक अधिकरण, (सं. 2), धनबाद के पंचाट को प्रकाशित करती है।

S.O. 2456.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Govindpur Colliery of M/s. Bharat Coking Coal Ltd. and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 108 of 1987

PRESENT:

Shri I. N. Sinha, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

PARTIES:

Employers in relation to the management of Govindpur Colliery of M/s. Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri S. Bose, Secretary, R.C.M.S. Dhanbad.

On behalf of the employers—Shri B. Joshi, Advocate.

INDUSTRY : Coal.

Dated, Dhanbad, the 18th August, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal vide their Order No. L-20012(272)/86-D.III(A) dated, the 24th March, 1987.

SCHEDULE

"Whether the action of the management of Govindpur Colliery of BCCL in not referring their workman, Smt. Fulukumar Kamin, Wagon Loader/Stacker to Medical Board for assessment of her age and in insisting on her retirement from service in September 1986 was justified? If not, to what relief is she entitled?"

Soon after the receipt of the order of reference the same was registered as Ref. 108 of 1987. Subsequently when the case was fixed for filing W.S. by the workmen, both the parties appeared and filed a petition of compromise. I heard both the parties on the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly I accept the same and pass an Award in terms of the said compromise petition which forms part of the Award as Annexure.

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

Ref. No. 108/87

Employers in relation to the management of Govindpur Colliery of M/s. B.C.C. Ltd.

AND

Their workman.

PETITION OF COMPROMISE

The humble petition on behalf of the parties to the above reference most respectfully sheweth :—

1. That the Central Government by notification No. L-20012(272)/86-D.III(A) dated 24-3-1987 has been pleased to refer the present dispute to the Honble Tribunal for adjudication on the issue contained in the Schedule for reference which is reproduced below :—

SCHEDULE

"Whether the action of the management of Govindpur Colliery of BCCL in not referring their workman Smt. Fulukumar Kamin, Wagon Loader/Stacker to Medical Board for assessment of her age and in insisting on her retirement from service in September, 1986 was justified? If not, to what relief is she entitled?"

2. That the above dispute has been amicably settled between the parties on the following terms :—

TERMS OF SETTLEMENT

(A) That the concerned lady Smt. Fulukumar Kamin Wagon Loader/Stacker shall be sent to the Apex Medical Board of the Company for assessment of her age within 15 days from the date she reports for her medical examination.

(B) That the concerned lady will be reinstated in case the Apex Medical Board will declare her age to be less than 60 years of age. The period of idleness from the date of superannuation in September, 86 till her resumption of duty will be treated as leave without wages and her continuity of service will be maintained.

(C) That in case the Apex Medical Board will assess her age as more than 60 years or the concerned lady does not report for her medical examination within 60 days from the date of this settlement she will not be entitled to any relief.

(D) That the age assessed by the Apex Medical Board will be final and binding on both the parties and no party will have any right to challenge age so asserted by the Apex Medical Board.

3. That in view of the above settlement there remains nothing to be adjudicated.

It is humbly prayed that the Hon'ble Tribunal will be graciously pleased to accept the settlement as fair and proper and be pleased to pass the Award in terms of the settlement.

For the Employers

(S.N.P. Rai),
General Manager

For the workman
(G. D. Pandey),

Vice President
Rashtriya Colliery Mazdoor Sangh

(S. P. Singh),
Personnel Manager

Witnesses :

- 1. Sd/- (Illegible)
- 2. Sd/- (Illegible)

I. N. SINHA, Presiding Officer

[No. L-20012(272)/86-D.III(A)/IR(Coal-I)]

फारा. 2457—भौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुग्रह में, केन्द्रीय सरकार मैसर्स श्रीराम हार्ड कोक इंडस्ट्रीज, जंगलपुर के प्रबंधतात्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनबंध में निर्विट भौद्योगिक विवाद में केन्द्रीय सरकार भौद्योगिक प्रधिकरण, (सं. 1), धनवाद के पंचाट का [प्रकाशित करती है।

S.O. 2457.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Management of M/s. Shriram Hard Coke Industries, Junglpur and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

In the matter of a reference under section 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 14 of 1987

PARTIES :

Employer in relation to the management of M/s Shriram Hard Coke Industries, Junglpur, Govindpur.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri D. K. Verma, Advocate.
For the Workman—None.

STATE : Bihar

INDUSTRY : Hard Coke

Dated, the 31st July, 1989

AWARD

By Order No. I-20012/81/87-D.III(A), dated the 18th September, 1987, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of sub-section (2A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of M/s. Shreera mHard Coke Industries Junglpur, Govindpur, Distt. Dhanbad in stopping Shri Upendra Singh, Ex-fireman from work is justified ? If not, to what relief is the workman entitled?"

2 The case of the management of M/s. Shreeram Hard Coke Industries Junglpur Govindpur, Dist. Dhanbad as appearing from the written statement filed briefly stated is as follows :

The present dispute is not maintainable either in law or on facts. Upendra Singh, the concerned workman, was a temporary employee and he never completed 240 days attendance in any calendar year. He left his job without any information to the management. As a matter of fact he was absenting from duties since 10-8-86 without any sanction or permission. The management did not terminate his services; in fact, he himself abandoned his job and as such he has lost his lien in the employment. He was asked verbally by the management to join his duty, but since he was working elsewhere, he was reluctant to work for the management. Another person has already been employed in his place and as such, the management is unable to reinstate him. Under these facts and circumstances the management has prayed that its action be held to be justified.

3. The concerned workman, in his written statement, has stated that he was working as a Fireman and was a permanent employee of the management since 1984. He never absented from his duty and that he always attended his duties. About one and half year ago he was talking with an employee of the said factory over some matter. While doing so, he was insulted by some unknown employee of the factory and that the said unknown employee complained against him to the management and thereafter the management terminated his services. He is not working anywhere and is eking out his livelihood as a green grocer. He did not leave his work on his own accord. It has been alleged that he absented himself from duty from 10-8-86 without any application to the management for grant of leave. But this allegation is completely baseless. He is agreeable to join his duty as soon as possible subject to payment of his dues, like arrears etc.

4. In rejoinder to the written statement of the concerned workman the management has denied each and every allegation contained in the written statement submitted by the concerned workman.

5. The concerned workman has not submitted any rejoinder to the written statement of the management.

6. The management has examined only one witness in this case and he is MW-1 Shashi Pratap Singh, Manager of M/s. Shreeram Hard Coke Industries.

7. Admittedly, Upendra Singh was working as a Fireman of the concern styled Shreeram Hard Coke Industries. It has been asserted by the concerned workman that he was a permanent employee and was working in M/s. Shreeram

Hard Coke Industries since 1984. But there is no vestige of evidence to indicate that he was either working in a permanent capacity or was working since 1984. On the other hand, the management has contended that he was a temporary employee and that he never worked for more than 240 days in a calendar year.

8. It is the case of the management that the concerned workman started absenting himself from duty with effect from 10-8-1986 without any information to the management or without any application for leave. This has been disputed by the concerned workman. But MW-1 Shashi Pratap Singh has stated that the concerned workman was absenting from duty without any information to or permission of the management for leave. The management has asserted that the concerned workman has left his employment on his own. This has been disputed by the concerned workman. But MW-1 Shashi Pratap Singh has emphatically stated that the concerned workman left the services of the concern out of his own volition.

9. Shri D. K. Verma, learned Advocate for the management has contended that the concerned workman has abandoned his job and this can be inferred from the fact that he was absenting from his duty for long without any intimation to or permission of the management. Abandonment or relinquishment of service is always a question of intention and such intention may be inferred from the acts and conduct of the party. The concerned workman was absenting from his duty for long without any intimation to or permission of the management. He has stated in his written statement that he has been eking out his livelihood as a green grocer. MW-1 Shashi Pratap Singh has stated that the management was informed by knowledgeable people that he was doing private business. Thus, the facts that emerge are that the concerned workman was absenting himself from duty for long without any information to or permission of the management and that he was doing private business. In the circumstances, it can be inferred that he was no longer interested in his employment and abandoned his job.

10. It is the case of the management that another person has been employed in place of the concerned workman. MW-1 Shashi Pratap Singh has supported this fact and added that there is no vacancy in their firm for Fireman.

11. Considering all these facts and circumstances, I come to the conclusion that the action of the management in stopping the concerned workman from work is justified.

1. Accordingly the following award is rendered—
the action of M/s. Shreeram Hard Coke Industries Junglpur, Govindpur, Dist. Dhanbad, in stopping the concerned workmen from work is justified.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer
[No. I-20012(81)/87-D.III(A)/IR(Coal-II)]

का.प्रा. 2458.—प्रौद्योगिक विवाद धर्घानियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, "प्रौद्योगिक मरकार मेसमं भारत कोकिं कोल नियिटेड की बुडगढ़ कोलयारी के प्रबन्धताल में सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में नियिट औद्योगिक विवाद में केन्द्रीय मरकार औद्योगिक अधिकारण, मं०३ घनवाद के पंचाट को प्रकाशन करती है।

S.O. 2458.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2 Dhanbad, as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Burranghat Colliery of M/s. Bharat Coking Coal Ltd. and their workmen,

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 24 of 1988

In the matter of an industrial dispute under Section 10(1)(d)
of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of Burragarh
Colliery of Messrs. Bharat Coking Coal Limited

AND

Their workmen.

APPEARANCES :

On behalf of the workmen—Shri S. P. Singh, General
Secretary, Khan Mazdoor Congress.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 24th July, 1989

AWARD

The Government of India, Ministry of Labour and Rehabilitation in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 had referred the following dispute to the then Central Government Industrial Tribunal No. 3, Dhanbad. Subsequently vide Ministry's Order No. S-11025/7/87-D.IV(B), dated, the 31st December, 1987 the said reference has been transferred to this Tribunal for adjudication.

SCHEDULE

"Whether the action of the management of Burragarh Colliery of M/s. Bharat Coking Coal Limited, in deploying S/Shri Samir Kumar Adhikari and Mukti Mahato against higher category jobs without paying them difference of wages and without regularising them in the higher category job of which has been performed by them, is justified? If not, to what relief these workmen are entitled and from what date?"

The case of the workman is that the concerned workman Shri Samir Kumar Adhikari was originally appointed in Burragarh Colliery of M/s. BCCL as General Mazdoor and was placed in Category I of the Wage Board. Subsequently in June, 1978 the management transferred him on the job of high tension compressor operator/Switch board attendant which is a job of Category IV of the Wage Board. The other concerned workman Mukti Mahato was originally appointed as line Mazdoor and was placed in Category II of the Wage Board under the management of Burragarh Colliery of M/s. BCCL. Subsequently in 1980 the management transferred him on the job of line Mistry which is a job of Cat. IV of the Wage Board.

Both the concerned workman represented several times their case for their regularisation on the respective job and for payment of difference of wages for working on the higher category according to the policy decision of BCCI. But the management did not reply to their representation. According to the policy decision of the management, a worker working on higher category are to be paid the difference of wages and they are also entitled to be regularised if such workers works on the higher category for more than 6 months. As the concerned workman were performing the duties of the higher categories both of them are entitled to be regularised

on the respective jobs in which they are working. The denial of payment of difference of wages and their regularisation by the management is a gross violation of their own policy decision. The union of the workmen took up the said dispute with the management and when no reply was given by the management, the union raised an industrial dispute before the A.I.C.C., Dhanbad by the representation dated 15th November, 1983. The A.I.C.C. started conciliation proceeding in which the management participated and on failure of conciliation, failure report was sent by the Conciliation Officer to the Government of India whereupon the present reference was made for adjudication. On the above facts it is prayed that both the concerned workman be regularised on their respective jobs with retrospective effect with payment of difference of wages.

The case of the management is that both the concerned workman are general mazdoors in Category I. As General Mazdoor they are entitled for Category I wages. They had not been engaged on higher category jobs on permanent basis or on probation. Sometimes they had worked in the higher category jobs during leave and sick vacancies but the same will not entitle them to be regularised on higher category jobs. The compressor khalasi and Switch board attendants are in Category III. The concerned workman Samir Kumar Adhikari was deputed to work with compressor khalasi and Switch board attendants to carry on certain jobs of cleaning, oiling etc. and to learn jobs of compressor khalasi and Switch board attendant with a view to promote him to that post in case of future vacancy. He will be regularised in some specific job when he will be found fit for that post. The concerned workman Mukti Mahato was deputed to work with Line Mistry in carrying lines with a view to make him Line Mazdoor after some time when he will be proficient on that job. The concerned workman Mukti Mahato has been put in Category II and when he learnt the job of Line Mistry he will be put in Category III for working with 30 lbs rifles. The concerned workman had not been regularised on higher category jobs and hence they cannot claim higher category during their training period. As the concerned workmen are not working in the higher category jobs, they cannot claim higher categories, and the difference of wages of the higher category. On the above facts it is prayed on behalf of the management that the Award be passed holding that the concerned workmen are not entitled to any relief.

The point for decision is whether the concerned workmen are entitled to be regularised in the higher category jobs being performed by them and whether they are entitled to the payment of the difference of wages of the higher category.

The management examined one witness and the workmen examined two witnesses in support of their respective case. The documents of the workmen have been marked Ext. W-1 to W-3. No document has been exhibited on behalf of the management. MW-1 is working in Burragarh Colliery as Asstt. Colliery Manager since 1982. He has stated that both the concerned workmen had worked under him. He has stated that when he joined in 1982 at Burragarh Colliery the concerned workman Samir Kumar Adhikari was working as General Mazdoor and the concerned workmen Mukti Mahato was working as line coolie. He has further stated that in 1984 the concerned workman Mukti Mahato was promoted as Line Mistry in Cat. III. He has stated that in Burragarh Colliery the rails are of less than 30 lbs per yard and as such the concerned workman Mukti Mahato was fixed in Cat. III after he was promoted from Line coolie to Line Mistry in 1984. He has also stated that as Line coolie the concerned workman was in Cat. II. From his evidence, it appears that the concerned workman Mukti Mahato was

working as Line coolie in Cat. II prior to 1984 and thereafter the concerned workman Mukti Mahato was promoted as Line Mistry Cat. III. The concerned workman Mukti Mahato has examined himself as W-1. He has stated that he was appointed in Burragarh colliery in 1974 as Line Mazdoor and from 10-1-84 he stated working as Line Mistry. Thus the evidence of MW-1 is almost the same as WW-1 who has also admitted that he started working as Line Mistry from January, 1984 and prior to that he was working as Line Mazdoor which is Cat. II job. WW-1 further stated that although he started working as Line Mistry from 10-1-84 his designation continued as Line mazdoor and he was not paid the difference of wages of Line Mazdoor and Line Mistry when he started working as Line Mistry from 10-1-84. He has stated that he has complained to the management about it and filed a petition to the management of which Ext. W-2 is the office copy. Ext. W-2 is dated 7-4-83. in which the concerned workman represented to the Agent, Burragarh Colliery for changing his designation as Line Mistry and paying him the difference of wages of Line Mistry since 10-1-80. WW-1 stated that there is note of the officer on the said petition. From the note it appears that the concerned workman was working as Line Mistry as and when required but as his basic wages was more than the starting basic wages of Cat. III he was not paid any difference of wages for working as Line Mistry. We have no evidence before us to show the period when the concerned workman had worked occasionally as Line Mistry prior to 10-1-84 and as such it is not possible to pass any definite order regarding the payment of difference of wages. There is also no evidence as to the amount of basic wages which was being paid to the concerned workman Mukti Mahato so that I could examine whether his basic wage in Cat. II was more than the starting basic wage of Cat. III when he was called upon occasionally to perform the duties of Line Mistry in Cat. III. Ext. W-3 dated 12-2-82 is another representation of the concerned workman Mukti Mahato to the Agent for changing his designation as Line Mistry from 1980. This representation Ext. W-3 was filed prior to Ext. W-2. WW-1 has stated that he was working regularly. He has stated that he rails in Burragarh Colliery is of 30 or 40 lbs per yard and that there are 5 Line Mistry working in Burragarh colliery of whom 4 are in Cat. IV and the concerned workman is in Cat. II. Although they are all working on the same rails. In cross-examination he has stated that he was promoted from Cat. II to Cat. III in 1984 but did not get any letter of promotion. He does not know if line Mistry are first given Cat. III and on further promotion they are given Cat. IV. He has stated that he has received authorisation to work as Line Mistry but he has not filed them to show the period from which he started working as Line Mistry. WW-2 Shri Hamid Mia is working as Line Mistry in Burragarh colliery. He has stated that the rails of Burragarh Colliery are of 30 lbs and 40 lbs and all the line Mistry work in the said rail. He has stated that the concerned workman also works along with him as Line Mistry on the rails of 30 and 40 lbs. He has stated that all the Line Mistries other than the concerned workmen are in Cat. IV and the concerned workman is in Cat. III, and gets wages of Cat. III. Thus his evidence shows that the concerned workman is getting wages of Cat. III and it does not appear from his evidence that the concerned workman gets the wages of Cat. II only after he started working as Line Mistry in Cat. III. On further examination of the evidence of WW-2 it will appear that WW-2 was Line Mistry in Burragarh Colliery along with 3 other Line Mistries since before nationalisation in Cat. II and that thereafter they were promoted in Cat. IV. From his evidence it will appear that the concerned workman was in Cat. I at the time of nationalisation and thereafter the concerned workman was promoted to Cat. II and then to Cat. III. Thus the case of the concerned workman is not similar to the case of the other 4 Line Mistry of Burragarh Colliery. The other 4 Line Mistries working in Burragarh Colliery were Line Mistry since before nationalisation when the concerned workman was in Cat. I. They were also promoted in Cat. IV. The concerned workman therefore cannot claim Cat. IV on the ground that other Line Mistry of Burragarh Colliery are in Cat. IV. It will appear from the evidence of WW-2 that he had never weighed the rails of the colliery. The management has tried to show from the evidence of WW-2 that heavy rails are fitted in the main

line in which the Sr. line Mistries are placed and that the junior Line Mistries are posted in the light rails which are fitted in the sides of the heavy rails. There is no case of the workmen in the W. S. that he was working on rails above 30 lbs. weight per yard. This has been introduced in the evidence when MW-1 stated in his evidence that the rail in Burragarh Colliery are of 30 lbs. weight per yard. In my opinion there is no evidence to show that Burragarh Colliery has rails of weight of more than 30 lbs per yard.

MW-1 has stated that the D.P.C. is held for promotion of workmen from the lower to the higher category and that the concerned workman was promoted through D.P.C. The evidence that the concerned workman was promoted as Line Mistry in Cat. III from 10-1-1984 and as such he would qualify for promotion to Cat. IV after gaining experience as required in the promotion policy of the management.

It will appear from NCWA-I that a line Mistry working on rails below 30 lbs are to be placed in Cat. III and that a line Mistry working on rails from 30 lbs upto 50 lbs are to be placed in Cat. IV. As there is no evidence to show that the concerned workman was working on rails of 30 lbs and above and as such he is not entitled to Cat. IV. The other Line Mistry working in Burragarh colliery got Cat. IV because of their long experience as Line Mistry. The concerned workman was promoted from Line Mazdoor Cat. II to Line Mistry Cat. III in January, 1984 and as such his case can be considered for promotion to Cat. IV by the D.P.C. after he completes the required experience. As stated by WW-2 that the concerned workman is already getting wages of Cat. III from the date of his promotion as Line Mistry, it appears that the concerned workman is not entitled to any difference of wages.

Now regarding the case of the concerned workman Shri Samir Kumar Adhikari, MW-1 has stated that since 1-10-88 Samir Kumar Adhikari has been promoted as Winding Engine Operator in Cat. IV. He has further stated that the concerned workman Samir Kumar Adhikari was working as General Mazdoor in the cleaning and oiling in compressor house, Switch Board house and winding engine house & that Samir Kumar was given opportunity to operate the different machines under the guidance of his father and other operators as the father of Samir Kumar was working as Winding Engine Operator at the winding engine house of Burragarh Colliery. MW-1 has stated that an authorisation is given by the management to those who are appointed as competent persons as per the Coal Mines Regulations and that Switch Board attendant and compressor operators are competent persons. Ext. W-1 is the Form of appointment of competent person under coal Mines Regulations. It is dated 22-1-83 showing that the concerned workman Samir Kr. Adhikari was authorised to work as sub-station attendant to operate 11 KV Switches in Burragarh colliery. The fact that Samir Kumar Adhikari was given authorisation to work as Sub-station attendant will show that he was competent to work as Sub-station attendant and it is not true that he was placed only for the purpose of training but its will not show that he was regularly engaged as such. It appears therefore that the concerned workman Samir Kumar Adhikari was working as Switch Board attendant even prior to his promotion as and where required as winding engine operator in Cat. IV on 1-10-1988. Even MW-1 admitted that the authorisation Ext. W-1 was given by the management authorising Samir Kumar as sub-station attendant to operate 11 K.V. switch. He has stated that there are papers to show that Samir Kumar Adhikari was kept under training to operate the machine but the management has not produced any document to show that Samir Kumar Adhikari was kept under training to operate machines prior to his promotion. MW-1 Mukti Mahato has stated that Samir Kumar Adhikari whose designation was of general mazdoor was not paid the difference of wages when he started working in the higher category. He has not been able to depose since when Samir Kumar Adhikari was working in the higher category so that it may be examined whether the concerned workman Samir Kumar Adhikari was entitled for the payment of difference of wages of the higher category. WW-2 has not stated anything about the concerned workman Samir Kumar Adhikari. The concerned workman Samir Kumar Adhikari has not examined himself to show since when he was working in the higher category although designated as Mazdoor. As there is paucity of evidence in respect of the case of the concerned workman

Samir Kumar Adhikari, it is not possible to come to any finding regarding the period from which the concerned workman Samir Kumar Adhikari was regularly working in the higher category and whether he was paid the difference of wages for the period he had worked in the higher category. The authorisation Ext. W-1 no doubt shows that Samir Kumar Adhikari was authorised to work in the higher category from 21-1-1983 but it cannot be used to show that the concerned workman Samir Kumar Adhikari was working continuously and regularly in the higher category since 21-1-1983. In the above view of the matter it is not possible to hold that the concerned workman Samir Kumar Adhikari should be regularised in the higher category from any period prior to 1-10-1988 and that he was entitled to any difference of wages in the higher category.

In the result, I hold that the action of the management of Burragarh Colliery of M/s. BCCL in not regularising the concerned workman S/Shri Samir Kumar Adhikari and Mukti Mahato in the higher category and not paying them the difference of wages of the higher category jobs is justified and consequently they are entitled to no relief.

This is my Award.

I. N. Sinha, Presiding Officer.

[No. L-20012 (29)84-D. 3(A)IR (Coal-1)]

का.प्रा. 2459.—प्रौद्योगिक विवाद प्रधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसर्स भारत कोकिंग कोल लि. की जातीशीह कोलियरी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, मनुष्य में निविष्ट प्रौद्योगिक विवाद में केन्द्रीय सरकार, प्रौद्योगिक प्रशिकरण (स० 2), धनबाद के पंचाट को प्रकाशित करती है।

S.O. 2459.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Jogidih Colliery of M/s. Bharat Coking Coal Ltd. and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD
PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 17 of 1980

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Jogidih Colliery of Messrs. Bharat Coking Coal Limited, Post Office Tundoo, District Dhanbad and their workmen

APPEARANCES :

On behalf of the workmen.—Shri S. Bose, Secretary, R.C.M.S. Dhanbad.

On behalf of the employer.—Shri B. Joshi, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, Dhanbad, the 17th August, 1989

AWARD

This case has been received on remand from the Hon'ble High Court of Patna (Ranchi Bench) after setting aside the Award. This reference was originally disposed off by an Award dated 29-10-82 passed by my predecessor-in-office, Shri J. P. Singh, Presiding Officer, Central Government Industrial Tribunal No. 2, Dhanbad. The order of remand was passed in CWJC 869 of 1983(R) by Hon'ble Mr. Justice B. P. Singh vide his order dated 9-12-88. His Lordship directed this Tribunal for recording a finding afresh after considering such materials as is there on the record and to record a finding after discussing such materials in the Award. His Lordship further directed that the Tribunal should consider the nature of duties and responsibilities shouldered by a Surface Incharge in the Coal Mines in question and those shouldered by Surface Supervisor in Grade-I in any Coal Mines where such posts existed as recommended by the Wage Board.

The Central Government by its order No. L-20012(46)80-D. III(A), dated, the 19th August, 1980 referred the following dispute under Section 10(1) (d) of the I.D. Act to this Tribunal for adjudication with the following terms :

“Whether the demand of the workmen of Jogidih Colliery of Messrs. Bharat Coking Coal Limited, Post Office Tundoo, District Dhanbad that Shri Duheswar Singh should be designated as Surface Incharge and placed in Grade-I (Clerical) is justified? If so, to what relief is the said workman entitled?”

The case of the workmen is that the concerned workman Shri Duheswar Singh was employed in East Sinidih Colliery prior to the nationalisation of the said colliery. The present Jogidih colliery under BCCL has been reorganised after amalgamation of several collieries owned by different owners prior to nationalisation of those collieries with effect from 1-5-73. East Sinidih colliery is one of the collieries which has been amalgamated with Jogidih Colliery in the aforesaid process of reorganisation by BCCL sometime after 1-5-73 when the ownership, management and control of those collieries vested in BCCL by the Central Government. The concerned workman was employed in East Sinidih colliery as Surface Supervisor which is also designated Surface Incharge in the Coal Mining Industry. After nationalisation he was designated as Surface Munshi in Grade-III and placed him in Clerical Grade-III wage scale though as Surface Supervisor he should have been fitted in Clerical Grade-I wage scale with effect from 1-5-73 when the collieries were nationalised. Although the concerned workman was fitted in the pay scale of Clerical Grade-III, he continued to perform the original duties of Surface incharge under BCCL also. The management had assured the concerned workman that the fixation of his grade as Surface Munshi in Clerical Grade-III was temporarily made and his case will be decided soon and he continued to perform his duties as before. The concerned workman continued to perform the duties of Surface incharge on payment of much lower rate of wages.

The concerned workman waited for considerable period of time but the management did not designate him properly and did not pay the scale of surface in-charge. Thereafter he made a written representation dated 3-5-78 to the Manager, Jogidih Colliery with copies to the higher authorities. The union of the workmen also represented the matter before the General Manager, Area No. III of BCCL vide letter dated 26-6-78 but the General Manager by his letter dated 18/20-7-78 refused to consider the case of the concerned workman. Thereafter the union of the workmen through letter dated 24-9-78 raised an industrial dispute before the ALC(C), Dhanbad. The ALC(C) started conciliation proceeding but the conciliation failed and thereafter the present reference was made to this Tribunal for adjudication. On the above facts it has been prayed that the concerned workman should be designated as Surface Incharge and should be placed in Clerical Grade-I and be paid the scale of pay of Clerical Grade-I with effect from 1-5-1973.

The case of the management is that the concerned workman was working as Munshi at the time of nationalisation of Coal Mines and he was being paid on daily rated basis of Rs. 5.35P. per day. On 1-5-73 the present management voluntarily and suo moto placed the concerned workman in Clerical Grade-III with a basic wages of Rs. 180 per month. The concerned workman had been working as Surface Munshi and not as a Surface Supervisor at the East Sindih Section of the colliery. The concerned workman is being paid wages in Clerical Grade-III as per nature of the job being performed by him. The concerned workman is a literate man and does not possess the requisite academic qualification etc. to be promoted to a higher clerical Grade. He was inadvertently addressed as Surface Incharge by the management but he cannot take advantage of the same. There was no post of Surface Incharge in the colliery and the said job cannot be equated with the job of Surface Supervisor as provided in the Coal Wage Board Recommendation. All matters of promotion from lower grade to higher grade in Clerical cadre have to be considered by the D.P.C. The matter of promotion is entirely within the discretion of the management and as such the matter of promotion of the concerned workman cannot be agitated before the Tribunal. It is prayed that it be held that the demand of the workman is not justified and that the concerned workman is not entitled to any relief.

In view of the pleadings of the parties and direction of the Hon'ble Judge in the remand order the party which arise in the case for consideration is

whether the concerned workman was working and discharging the duties of Surface Incharge in Clerical Grade-I post ? In this connection it has to be seen whether the nature of duties and responsibilities shouldered by the concerned workman as Surface Incharge is the same as shouldered by the Surface Supervisor in Grade-I in the Coal Mine where such posts exist.

The workmen and the management each examined one witness in support of their respective case. The documents of the management are marked Ext. M-1 to M-5 and the documents of the workmen were marked Ext. W-1 to W-4.

It is now almost an admitted fact that the concerned workman was discharging the duties of Surface Incharge in Grade-II since 1974. However, I will briefly refer to the documents adduced by the parties on the said point. Ext. M-1 is a list containing the name of Surface Incharge of Jogidih Colliery as on 25-7-77. It contains the name of Shri Param Hansh Singh, R. C. Sharma and Ali Ahmed. Their designation has been shown as Surface Incharge and were placed in Clerical Grade-II. It appears therefore that the Surface Incharge of Jogidih colliery were placed in Clerical Grade-II. Ext. M-2 will show the names of the collieries which were amalgamated and named as Jogidih Colliery. Ext. M-3 is an extract from Bonus Register concerning the concerned workman Duddeswar Singh in respect of first, second and 3rd quarter of 1973 in which the designation of the concerned workman has been shown as Surface Munshi. Ext. M-4 is an extract from Form B Register in respect of the concerned workman in which his designation has been shown as Surface Munshi. The concerned workman has admitted these documents Ext. M-3 and M-4. In his evidence the concerned workman W-1 has stated that the job of Surface Incharge was introduced by M/s. BCCL and they were placed in Clerical Grade-II. In his cross-examination the management suggested to him that he was working as Surface Incharge since 1974. The concerned workman no doubt denied this suggestion but from the said suggestion it appears that the management itself admits that the designation of Surface Incharge was given to the concerned workman since 1974. The management thus appears to have admitted that the concerned workman was working as Surface Incharge in Clerical Grade-II since 1974. The fact that till the 3rd quarter of 1973 the concerned workman was shown in the Bonus Register Ext. M-3 as Surface Munshi will indicate that the concerned workman continued as Surface Munshi till

1973 and from 1974 he was designated as Surface Incharge. In Ext. W-1 dated 2-6-74 the Manager of Jgidih unit has described the concerned workman as Surface Incharge. Ext. W-2 dated 25-7-77, Ext. W-3 dated 9-3-78 and Ext. W-4 dated 4-5-78 are all documents written by the Officers of the management and in all these documents the concerned workman has been shown as Surface Incharge by the management. Thus now it is almost an admitted case that the concerned workman was working as Surface Incharge in Clerical Grade-II in BCCL.

On perusal of the order passed by the Hon'ble High Court in CWJC No. 869 of 1983(R) it will appear that the said fact was admitted by the parties. I hold therefore that the concerned workman was working as Surface Incharge in Clerical Grade-II in Jgidih Colliery of M/s. BCCL from 1974.

I have held above that the concerned workman was designated as Surface Incharge and was placed in Clerical Grade-II by the management. On perusal of the evidence of the parties it will appear that the actual work being performed by the concerned workman as Surface incharge has not been stated and it remains an onigma as to the actual work being performed by the concerned workman as Surface incharge. His Lordship in the remand order directed to consider the evidence regarding the actual work being performed by the concerned workman and the nature of duties and responsibilities which are being performed by the Surface Supervisor in Clerical Grade-I in the Coal Mines. The job description of the Clerical cadre has not been specified either in the report of the Central Wage Board recommendation for the Coal Mining Industry nor in NCWAs. The grading and nomenclature of Clerical staff has no doubt been given in NCWA-I which will show that Loading Inspectors and Loading Supdts. have been placed in Clerical Grade-I. There is no post of Surface Incharge either in the Coal Wage Board Recommendation or in NCWAs. There is also no job description of the about stated Loading Inspector and Loading Supdts. in NCWA-I. Neither of the parties had adduced any evidence on the point as to what was the job actually being performed by the concerned workman as Surface Incharge or as to what is the nature of job being performed by the Surface Supervisors. In fact there is no post of either Surface Incharge or Surface Supervisor in the Coal Wage Board Recommendation or in NCWAs. NCWA-I no doubt gives the designation of Munshi- Incharge in Clerical Grade-II. None of the parties adduced any evidence or pointed out any evidence in the case to show as to what

is the nature of job and the actual duty being performed by Surface Supervisor in Coal Mines. There is also no evidence to the effect that the post of Surface Supervisor are in existence in the other coal mines of BCCL. In the above view of the matter it is not possible to give any finding and to compare the actual duty being performed by a Surface Incharge and a Surface Supervisor.

The concerned workman examined himself as WW-1. He has stated that he was appointed in Golden Sinidih colliery in 1968. He has himself admitted that in Coal Wage Board Recommendation there is no designation called Surface Incharge. He has stated that the job of surface incharge is now in most of the collieries of BCCL but there is no evidence to the effect that there are posts of Surface incharge in the other collieries of BCCL. On the contrary there are posts of Loading Inspector and Loading Supdts. In Clerical Grade-I the collieries as will appear from the NCWA-I. The evidence of WW-1 is every significant to come to a conclusion that the post of Surface Incharge is not the same as the post of Surface Supervisor and that the post of Surface Supervisor is of higher grade than the post of Surface Incharge. WW-1 has stated that the job of Surface Incharge used to be in Grade-II. He has further stated that Shri Parm Hansh Singh who was Surface Incharge was promoted to Grade-I and now he is designation as Surface Supervisor since about 8 months prior to his deposition. Ext. M-1 shows that the post of Surface Incharge is placed in Clerical Grade-II and even Parm Hansh Singh was placed in Grade-II when he was working as Surface incharge along with other persons. It is clear therefore that the Surface Incharge were placed in Clerical Grade-II by the management of BCCL in Jgidih Colliery and accordingly the concerned workman while working as Surface Incharge has rightly been placed in Clerical Grade-II. The evidence of WW-1 itself shows that the post of Surface Supervisor is in Clerical Grade-I and that a Surface incharge in Clerical Grade-II when promoted to Clerical Grade-I gets the post of Surface Supervisor. Admittedly, the concerned workman has not been promoted as Surface Supervisor and as such he cannot claim to get the scale of pay of Surface Supervisor or the designation of Surface Supervisor from the year 1974 or from any subsequent date unless he is promoted as Surface Supervisor from Clerical Grade-II.

The workmen have not led any evidence to the effect that the concerned workman has been superseded by Peram Hansh Singh or that there has been

any irregularity of illegality, in the promotion of Parm Hansh Singh as Surface Supervisor in Clerical Grade-I. The matter of promotion is the management's prerogative and this Tribunal cannot interfere in the said right of the management and pass an order promoting the concerned workman as Surface Supervisor in Clerical Grade-I.

In the result, I hold that the concerned workman Shri Dusheswar Singh is already designated as Surface Incharge, I further hold that the demand of the workman of Jogi Colliery of M/s. BCCL that the concerned workman should be placed in Clerical Grade-I as Surface incharge without his promotion to the post of Surface Supervisor is not justified. Accordingly the concerned workman is entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer
(No. 20012(46)80-D.III(A)/IR-Coal-I)

नई दिल्ली, 12 अगस्त, 1989

का. आ. 2460.—श्रीद्वयिक विदाय अधिकार, 1947 (1947 का 14) की धारा 17 के प्रान्तरण में, केन्द्रीय गरकार, सेवम् भारत कार्बोकार्बन लिमिटेड के अल्कुसा कोलियरी, कुम्हीर लेन्वर्स, 8 के प्रबंधन से संबंध नियोजकों द्वारा अनके कर्मकारों के द्वारा, अनुबंध में निर्दिष्ट श्रीद्वयिक विदाय से केन्द्रीय सरकार श्रीद्वयिक अधिकारण, में (1) धनवाद के पंचाट की प्रत्याग्रह करती है, जो केन्द्रीय सरकार की 5-9-89 की प्राप्त कुम्हा था।

New Delhi, the 12th September, 1989

S.O. 2460.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Alkusa Colliery, Kustore Area-8 of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Govt. on the 5-9-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.
In the matter of a reference under section 10(1)(d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 149 of 1988.

PARTIES :

Employers in relation to the management of Alkusa Colliery under Kustore Area VIII of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri G. Prasad, Advocate.
(Final hearing—none).

For the Workmen—None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 24th August, 1989.

AWARD

By Order No. L-20012/131/88-D.III(A) dated the 21st November, 1988 the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of Alkusa Colliery under Kustore Area VIII of M/s. Bharat Coking Coal Ltd. in not allowing Gano Bhui, who was appointed as a Minor Leader under the voluntary retirement scheme to join his duty is justified not, to what relief the concerned workmen is entitled?”

2. The order of reference for adjudication of the industrial dispute raised by the Vice-President, Dalit Mazdoor Sangh, Gandhi Nagar, Kendu, P.O. Kusunda, Dist. Dhanbad, was received in the office of the Tribunal on 28-11-88. In terms of the order of reference the Vice-President, Dalit Mazdoor Sangh was directed to file statement of claim and other documents within 15 days from the date of receipt of the order of reference.

3. After receipt of the order of reference 30-1-89 was fixed for taking steps by the parties, but since one of the parties appeared on the date fixed the next date was fixed on 7-3-89 with notice to the Vice-President under registered post directing him to file written statement by the date fixed. Notice was also given to the management by registered post. Presumably on receipt of the notice one Karu : Ram, General Secretary, Dalit Mazdoor Sangh, appeared, and on his verbal prayer the date for filing written statement was fixed on 25-4-89. Shri G. Prasad, Advocate, appeared for the management with letter of authority but none appeared either for the workman or for the union on 25-4-89. Again a notice was issued to the Vice-President, Dalit Mazdoor Sangh, directing him to show cause on 31-5-89 as to why the case should not be disposed of according to law. Although Shri G. Prasad, Advocate, appeared for the management but none appeared for union or for the concerned workmen. Anyway, next date was fixed on 3-7-89 and on that date Shri G. Prasad, Advocate, appeared for the management but none appeared for the union or for the workman. Next date was fixed on 9-8-89 but none appeared on that day for either of the parties. Again the next date was fixed on 24-8-89 and again none appeared for either of the parties.

4. In the context of facts and circumstances I have reason to believe neither the sponsoring union, Dalit Mazdoor Sangh, nor the concerned workman is interested to pursue the present dispute. That being the position I am constrained to pass 'no dispute award' in the present reference.

This is my award.

S. K. MITRA, Presiding Officer
[No. L-20012(131)88-D.III(A)|IR-Coal-I]

का. अ. 2461.—शौलोगिक विवाद प्रधिनियम, 1947 (1947 का 14) की आरा 17 के मनुसंहरण में, केन्द्रीय सरकार, भैसर्स भारत कोकिंग कोल लिमिटेड की बंसदेवपुर कोनिंघरी के प्रबंधनसंग्रह से संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट शौलोगिक विवाद में केन्द्रीय सरकार शौलोगिक प्रधिकरण, (सं. 1), घनबाद के विषाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-9-89 को प्राप्त हुआ था।

S.O. 2461.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the

Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. I), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bansdeopur Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on the 5-9-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 10 of 1988

PARTIES :

Employers in relation to the management of Bansdeopur Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri R. S. Murty, Advocate.

For the Workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union. (Final hearing—none).

STATE : Bihar

INDUSTRY : Coal.

Dated, the 24th August, 1989

AWARD

By Order No. L-20012(94)82-D. III(A) dated, the 20th August, 1982, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1)

Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal.

“Whether the demand of the workmen of Bansdeopur Colliery of Messrs Bharat Coking Coal Limited, Post Office Kusunda, District Dhanbad that the workmen mentioned in the Annexure below should be reinstated on their posts and treated as workmen of the management is justified ? If so, to what relief are the said workmen entitled ?”

ANNEXURE

1. Shri Lalan Ram
2. Shri Radhe Shyam
3. Shri Bhola Ram
4. Shri Jaswant Kumar
5. Shri Ram Dhani Yadav
6. Shri Suresh Tanti
7. Shri Barshat Dhobi
8. Shri Lala Yadav
9. Shri Ram Lakhman Singh
10. Shri Shant Lal Yadav
11. Shri Musafir Rajbhar
12. Shri Shahid Mia
13. Shri Khashim Ansari
14. Shri Vinod Bihari Ram
15. Shri Thundi Ram.

2. The case of the sponsoring union, Bihar Colliery Kamgar Union, as appearing from the written statement filed, details apart, is as follows :

Lalsu Ram and 14 others had been working as Underground Stone cutters since long with unblemished record of service. They were working in the permanent nature of job under the control and supervision of the colliery management. As per Mines Act and Rules framed thereunder underground workers are legally bound to perform the duties under the supervision & guidance of the Competent Authority i.e. Mining Sirdar, Overman, Asstt. Manager and

that anyone who is not an employee of the colliery cannot supervise the job or give direction to underground workers. Anyway, all the equipment and implements used for the execution of the job were being supplied by the colliery management. Stone-cutting job is an integral part of mining operation. The management has implemented the Wage Board Recommendation and the job description and category find place in the said Recommendation. The concerned workman had been rendering services for the business of the colliery. As per Wage Board Recommendation, N.C.W.A. I and II, the concerned workmen were entitled to Category IV wages and other perquisites, but the management with an ulterior motive to deprive them of their legitimate claim had been disbursing their wages on vourches through intermediaries. Disbursement of wages through intermediaries in the prohibited category of job was nothing but legal camouflage. All the them had rendered continuous service and had put more than 190 days attendance in each calendar year. The local management of M/s. B.C.C. Ltd. is very much biased and prejudiced against the members of Bihar Colliery Kamgar Union. As soon as the concerned workmen started demanding regularisation and wages as per N.C.W.A. II, the management stopped them from service. Seeing the anti-labour policy of the management the union raised an industrial dispute before the A.L.C.(C), Dhanbad, demanding reinstatement of the concerned workmen in service. The management appeared before the Conciliation Officer and submitted its comment, stating, inter alia, therein that the concerned workmen had never worked at Basdeopur colliery. The union challenged this false and motivated statement of the management and requested the Conciliation Officer to direct the management to produce Form 'C' Register and Cap Lamp Issue Register for the years 1979 to 1981. Conciliation Officer directed the management to produce the documents called for by the union, but the management did not produce the same as it would go against them. The Conciliation proceeding ended in failure due to the adamant attitude of the management. In the circumstances, the appropriate Government, realising the merit of the case, has been pleased to refer the dispute for adjudication before this Tribunal. The action of the management in terminating the services of the concerned workmen with effect from 4-3-1981 was illegal, arbitrary, un-

justified and smacks of anti-labour policy of the management. In the circumstances, the union has demanded reinstatement of the concerned workmen in service with full back wages by treating them as employees of the management of the colliery.

3. The case of the management of Basdebpur Colliery of M/s. B.C.C. Ltd. as appearing from the written statement submitted, is as follows :

Since there is no relationship of employer and employee between the management and the concerned persons and since the Annexure to the terms of reference does not contain full particulars of the concerned persons the present reference is not maintainable. Substantive case of the management is that it entrusted the job of constructing dams and stoppings in the underground sections of the colliery to a contractor, besides the job of line packing for some time. The contractor was Rajan Mahato. One Lalsu Ram was his Munshi and S/Shri Ram Lakhan Singh, Lala Yadav, Bhola Ram, Barshat Dhobi, Radhey Shyam, Yasbanta Kumar, Suresh Tanti and Ramdhani Yadav whose names are appearing in Serial Nos. 9, 8, 3, 7, 2, 4, 6 and 5 respectively were reportedly working under that contractor. Even so, the jobs entrusted to the contractor were purely temporary in nature and they were required to be executed now and then and intermittently. The remaining six persons referred to in the Annexure had never worked in the colliery. The jobs given to the contractor for execution have never been prohibited under the Contract Labour (Regulation & Abolition) Act. After working as Contractor for sometime, Rajan Mahato abandoned the job and Lalsu Ram applied for the work to be awarded to him, and it was accordingly granted to him. The contract came to an end when it expired. During the entire period when the contract remained in force the payments were made by the management to the contractors after they submitted their bills and it was upto the contractors to pay the wages to the labourers employed by them. It transpires even during the period when the contract system was in existence the persons named above worked for a very short period ranging from 12 to 71 days. During the conciliation proceedings the sponsoring union made various statements/allegations, such as, the concerned persons had worked for a long time under the management and that they were engaged in underground stone cutting job etc. The management denied all the allegations. The demand of the sponsoring union is false and baseless and it should be rejected. The persons cannot be treated as workmen of the management and so there can be no question of their reinstatement.

4. In rejoinder to the written statement of the management, the sponsoring union has reiterated that the concerned workmen were employed in underground mine in prohibited category of job under the direct supervision and control of the management. In the circumstances the concerned workmen were legally the employees of the management and so their demand for reinstatement in service with full back wages is justified. They were employed in stone cutting job for long and it is not true that they were engaged for construction of dams, stoppings and in line packing work. Lalsu Ram was also engaged as stone cutter along with the concerned workmen and the management used to disburse their wages in the name of Lalsu Ram posing him as contractor.

5.

5. In rejoinder to the written statement of the sponsoring union, the management has reiterated that there was no employer—employee relationship between the management and the concerned persons. Stone cutting job is not an integral part of mining operation. There cannot be any industrial dispute in respect of abolition of contract labour system in any job. No job was awarded to any contractor in respect of any prohibited job under the Contract Labour (Regulation and Abolition) Act and that no workman of the contractor had put in more than 190 days attendance in each calendar year. It has been denied that the management exercised any control or supervision over the work of the concerned persons.

6. Although ample opportunities were given to the sponsoring union no evidence, oral or documentary, could be produced by it. On the other hand, the management has examined only one witness, namely, MW-1 Ashoke Chatterjee who is working in Bansdeopur Colliery as Surveyor and laid in evidence a number of documents which has been marked Exts. M-1 to M-7.

7. At the outset Shri R. S. Murty, Advocate, for the management has submitted before me that the present reference is not maintainable since the sponsoring union is claiming abolition of contract labour system in the job that was entrusted to the contractor for execution. He has further contended that the question of abolition of contract labour system in any particular job can not be adjudicated by this Tribunal.

There is no dispute that the Tribunal has got no jurisdiction to consider the question of abolition of contract labour system in any particular job. Even then the contention of Sri Murty can not be accepted for the simple reason that no such claim for abolition of contract labour system in any particular job has been made by the union overtly or covertly. That being the position, I am satisfied that the present industrial dispute as has been referred to by the appropriate Government is maintainable.

8. The demand of the sponsoring union is that the concerned workmen were engaged in stone cutting job in underground mine of Basdeopur colliery and the management had no control and supervision over their job although the management used to pay the wages of the concerned workmen through intermediary. It has been further asserted by the sponsoring union that stone cutting job has been declared to be a prohibited category of job under the provisions of Contract Labour (Regulation and Abolition) Act. The management has contended that the concerned workmen were never engaged in stone cutting job in underground mine and that only 9 amongst them whose names are appearing in serial nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9 were engaged by the contractor who was entrusted with the job of construction dams and stoppings in the undergorund section of the colliery and the job of line packing for sometime. It is the further case of the management that when original contractor Rajen Mahato abandoned without making payment of wages to his workmen one Lalsu Ram his Munshi applied for the job being awarded to him and it was accordingly granted to him and the contract came to an end when it expired.

9. MW-1 Ashoke Chatterjee, Surveyor of Basdeopur Colliery has stated that Lalsu Ram was a contractor in Basdeopur Colliery and the six vouchers produced by the management bear the signature of Lalsu Ram (Ext. M-1 series). He has proved some work orders (Ext. M-2 series). These vouchers and work orders show that the contractor was engaged for drain cutting, earth cutting and making compound wall etc. and not for stone cutting job. This witness has proved the representation submitted by Lalsu Ram (Ext. M-3). From the representation it appears that the erstwhile contractor Rajen Mahato abandoned without paying wages to his workmen and the signatories to this representation prayed before the management for paying them their back wages. This representation was submitted by 14 of the concerned workmen excluding only Shant Lal Yadav whose name appears in serial no. 10 of the Annexure and one Md. Gurusay whose name does not appear at all in the Annexure.

10. It appears that upon receipt of the representation the management decided to pay back wages to the persons mentioned above and the contract issued to Rajen Mahato was terminated.

11. Thus, it appears from the evidence that the concerned workmen excepting Shant Lal Yadav whose name appears at serial no. 10 in Annexure to the schedule were employed through contractor for the job of drain cutting, earth cutting and making

compound wall and not for stone cutting job. MW-1 Ashoke Chatterjee has further stated that the management never exercised supervision or control over the work of the workmen of the contractor. There is no evidence on record to indicate that the management supplied these workmen their work tools. This being the position, it has been proved by the evidence that the concerned workmen were not engaged in stone cutting job in underground mine; they were engaged for doing drain cutting, earth cutting, making compound wall etc. by the contractor and that the contractor used to pay wages to his workmen. It is further proved by evidence that the management had no control and supervision over the work of the concerned workmen.

12. It appears that the concerned workmen were not engaged in any prohibited category of job as declared under the Contract Labour (Regulation and Abolition) Act. Since they were engaged for work permissible under the Contract Labour (Regulation and Abolition) Act and since the management did not exercise any control and supervision over their work nor did it provide them with work tools, I come to the conclusion that they were not really the workmen of the colliery but the workmen of the contractor. This being the position, the demand of the workmen of Basdeopur Colliery of M/s. B.C.C. Ltd. for reinstatement of the concerned workmen on their job by treating them as workmen of the colliery is not justified.

13. Accordingly, the following award is rendered—the demand of workmen of Basdeopur Colliery of M/s. B.C.C. Ltd. for reinstatement of the concerned workmen on their job by treating them as workmen of the management is not justified.

In the circumstances of the case I award no cost.

Sd/-

S. K. MITRA, Presiding Officer
[No. L-20012(94)]/82-D.III(A)]IR(Coal-1)]

गा. आ. 2462.—शोधांगिक विवाद अधिनियम, 1947 (1947 का 14) की घास 17 के अनुमति में, केन्द्रीय सरकार, मैमसे सेटल काल फील्ड निमिटेंट की गिडी 'ए' कॉलियरी के प्रबंधनताव ने संबद्ध नियोजकों और उनके कार्यकारों के बीच, अनुमध्य में निर्दिष्ट शोधांगिक विवाद में केन्द्रीय सरकार शोधांगिक प्रधिकारण (सं. 2), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-9-89 को प्राप्त हुआ था।

S.O. 2462.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Gidi 'A' Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on the 5-9-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.
PRESNT

Shri I. N. Sinha,

Presiding Officer.

REFERENCE NO. 20 OF 1981

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

PARTIES :

Employers in relation to the management of Gidi-A Colliery of Messrs. Central Coalfields Limited, District Hazaribagh and their workmen.

APPEARANCES :

On behalf of the workmen—Shri Narain Mahato, Advocate.

On behalf of the employers—Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSRY : Coal.

Dated, Dhabad, the 30th August, 1989

AWARD

This reference case No. 29 of 1981 was heard along with Ref. Case No. 59 of 1981 and the evidence adduced by the parties in respect of both the references were common and are kept in the record of Ref. No. 29 of 1981.

Both the reference cases were heard together by my Predecessor-in-office Shri J. P. Singh, Presiding Officer, Central Govt. Industrial Tribunal No. 2, Dhanbad and passed Award in identical terms in favour of the workmen by the Award dated 28-2-83. The management challenged both the Awards before the Hon'ble Patna High Court Ranchi Bench and they were registered as CWJC No. 1972/84(R) and CWJC No. 1969/84(R). Both the cases were disposed off by his Lordship Mr. Justice B. P. Singh by the order dated 15-4-89 quashing both the Awards passed by the Tribunal with a direction to pass fresh awards in accordance with the law and the directions contained in the order on the basis of the evidence already on the record. His Lordship further directed the Tribunal to record its finding on certain points formulated in the order.

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 had referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(296)/80-D.IIIA dated, the 16th May, 1981.

SCHEDULE

"Whether the demand of the workmen for regularisation and payment of Category-I wages to 20 Clay Cartridge Mazdoors (as detailed

in Annexure) by the management of Gidi-A Colliery of the Central Coalfields Limited, District Hazaribagh, is justified ? If so, to what relief are the workmen entitled ?"

ANNEXURE

1. Kumari.
2. Bhanmati.
3. Fulo.
4. Fulmani.
5. Balku.
6. Jithi.
7. Sitwa.
8. Loulin.
9. Nasima.
10. Jakir.
11. Charki.
12. Chhatu.
13. Lakshman.
14. Koushila.
15. Bhano.
16. Lilwa.
17. Muniya.
18. Faguni.
19. Prayag.
20. Rajhani.

The case of the workmen is that all the 20 concerned workmen named in the annexure to the order of reference are employees of Gidi-A colliery of CCL as Clay cartridge makers and are drawing wages from the management of Gidi-A colliery. Their case is that there is employer and employee relationship between the management and the concerned workmen. The other managements of colliery in CCL have regularised the Clay cartridge makers as permanent and regular workers. The concerned workmen are engaged in the job of making clay cartridges in Gidi-A colliery for more than 20 years and have become permanent as regular workmen of the said colliery. The concerned workmen are being paid wages @ Rs. 4/- to 5/- per day which is much less than the minimum wages as prescribed in NCWAs for Clay cartridge makers. The management of Gidi-A colliery is having a direct production of clay cartridge for the colliery with in the colliery premises by the concerned workmen. The clay cartridges are used in the colliery for the purpose of blasting of coal as stemming materials. The management provided facilities as working shed, water, and clay for the manufacture of clay cartridges. The management also used to provide coal to the concerned workmen for the oven to dry the clay cartridge during the rainy season. The work of clay cartridges making is a job of permanent nature and it is required to be manufactured regularly. The concerned workmen are directly engaged by the colliery management for producing clay cartridges but the management in order to usurp the wages of the workmen and to deprive them from getting full wages managed to select 2 or 3 persons in whose names their wages are paid by the management. The concerned workmen are receiving direct payment of their

wages from the management. The management of Gidi-A colliery is not regularising the services of the concerned workmen with ill motive and in order to victimise them. The concerned workmen are entitled to be regularised on permanent establishment of the management and placed in Cat. I of the NCWA-II and they should be paid the difference of wages for the entire period of their work.

The case of the management is that the reference is illegal in as much as there is no union of the name of Jharkhand Mazdoor Sangh in Gidi-A colliery and not a single workman of Gidi-A colliery is member of such union. The case of the management further is that clay cartridges are used for stemming holes during the blasting operation in the mine. The clay cartridges are purchased locally as the management has no arrangement to manufacture the same. Generally some female earn some extra money by preparing the clay cartridges in the locality outside their residential houses. Generally 2 to 3 persons either male or female manufacture the clay cartridges and supply the same to the management of Gidi-A colliery. The system of supply of clay cartridges from the suppliers is in practice since several years. The three suppliers of clay cartridges to Gidi-A colliery are Smt. Jaso, Smt. Nasima Khatoon, Shri Balku who have their own arrangement for the manufacture of clay cartridges and delivering the same to Gidi-A colliery. The bills of supply of clay cartridges are prepared on the basis of supply and the payment is made according to the agreed rate. Previously the rate of supply of clay cartridges were less but on the representation of the suppliers the management agreed to increase the rate for the supply of clay cartridges @ Rs. 10/- per thousand and the payment was made accordingly. The management have no concern whatsoever either with the manufacture of clay cartridges or its supervision. The supervision of the manufacture of clay cartridges is done by the suppliers themselves. The management is not even aware as to the persons who are engaged by the suppliers in the manufacture of clay cartridges. The management are aware that generally the female inmates of the household manufacture the clay cartridges after their household duties to earn some extra money. The management of Gidi-A colliery have not employed any persons to manufacture clay cartridges. The management purchases a lot of different stores materials from different persons and clay cartridges is one of such materials purchased by the management. It is too much to suggest that as supplier supply the clay cartridges to the management, the workers engaged in the manufacture of clay cartridges by the suppliers become employees of the management. There is no employer employee relationship between the management and the concerned workmen and the only relationship between them is of seller and purchaser. The management has no knowledge as to the amount which was being paid by the suppliers of clay cartridges to their workers. As the suppliers get the cartridges made at their own cost by employing their own labour for that purpose, the management are not concerned with those persons who make clay cartridges for such suppliers. The management do not pay for the supply of clay cartridges to the persons working under the supplier. The management do not provide the clay cart-

ridge makers any facility for the manufacture of clay cartridges. The management has no control over the persons manufacturing the clay cartridges and they are free to make clay cartridges for any one who may wish to purchase such clay cartridges from them. The demand of the concerned persons for their so called regularisation and payment of Cat. I wages by the management of Gidi-A colliery is totally unjustified and as such the concerned workmen are not entitled to any relief whatsoever.

The points for decision in this reference are :—

1. Whether there is employer employee relationship between the management and the concerned persons. In this connection it has to be seen whether the concerned persons are directly employed by the management of the Gidi-A colliery or whether they were employed by the supplier or any other person.
2. Whether the management has given facilities to the concerned persons for the preparation of the clay cartridges. In this connection it has to be seen whether the concerned persons prepare the clay cartridges within the premises of Gidi-A colliery or at their own place of work over which the management has no control.
3. Whether the payment of wages are made directly to the concerned persons by the management or whether the payment is made to the suppliers or contractors.
4. Whether the management exercises supervision over the clay cartridge makers and if so what is the nature of their supervision.

Although the management examined 9 witnesses, only MW-2 Shri A. B. Sharan, MW-4 Shri Jagdish Pd. Singh and MW-9 are the only persons who have deposed in connection with Gidi-A colliery (Ref. No. 29 of 1981), in order to support the case of the management. The other witnesses examined by the management are in connection with Ref. No. 59 of 1981. The workmen have examined 7 witnesses in all. Out of whom WW-1 Balko, WW-3 Shri Ramji Sahu, WW-5 Kumari and WW-6 Smt. Sarla Tudo have deposed in respect of Gidi-A colliery, the colliery concerned in Ref. No. 29 of 1981. The documents of the management are marked Ext. M-1 to M-9 out of which Ext. M-3, M-7 to M-9 are in connection with Gidi-A colliery and the rest of the documents of the management are in respect of Ref. No. 59/81. The workmen did not exhibit any document in the case.

Point No. 1, 2 and 3

These three points are inter-connected and as such they are taken up together.

The case of the concerned workmen is that they are employees of Gidi-A colliery of M/s. CCL and are working as clay cartridge makers on daily wage of Rs. 5/- per day. The case of the management, on the other hand, is that the concerned workmen are not the employees of Gidi-A colliery but are only the suppliers of clay cartridges for which they are paid

on the bills presented by them @ Rs. 10/- per thousand clay cartridges. Admittedly, there is no letter of appointment given to the concerned workmen. In fact the workmen have produced no document in support of their case that they are employees of Gidi-A colliery. The evidence of the relationship of employer and employee between the management and the concerned workmen is based on the oral evidence of the witness examined on behalf of the witnesses examined on behalf of the workmen. Although 7 witnesses were examined on behalf of the workmen and 9 witnesses of the management were examined, the actual witnesses connected with the present Ref. No. 29/81 are WW-1, 3 5 and 6 on behalf of the workmen and MW-2, 4 and 9 for the management. We have therefore to confine ourselves to the evidence of the above witnesses. The other witnesses examined in this case are in respect of Ref. No. 59 of 1981 which needs no discussion in Ref. No. 29 of 1981.

WW-1 is Balko named in Sl. No. 5 of the annexure to the schedule of the order of reference. He has stated that he is a Golamati worker (clay cartridge maker) in Gidi-A colliery since 1958. According to him all the 20 concerned workmen are clay cartridge makers of Gidi-A colliery. He has stated that their worksite for preparing the clay cartridges is located near the entrance of the mine which is within the compound of Gidi-A colliery. He has also stated that the management of Gidi-A colliery used to arrange to bring earth to the worksite on trucks for the preparation of the clay cartridges and the colliery office provides with water taps near their worksite. He has stated that the hours of their work for preparation of the clay cartridges are from 8.00 A.M. to 4 P.M. and that one office Peon of the colliery supervised their work and the concerned workmen are paid @ Rs. 5/- per day per worker. The payment is made on the weekly basis in the colliery office to each worker. He has stated that in fair weather season the clay cartridges are dried up in the sun but during the rainy season it is dried in ovens for which coal is supplied to them by the collieries and a shed has been provided to them for preparation of the clay cartridges. He has stated about the procedure as to how the clay cartridges are sent in the underground mine. He has stated that after the clay cartridges are dried up the helpers of shot firers or drillers come and take away the clay cartridges on a trolley or in sacks to the underground mine where clay cartridges are used as a stemming material for blasting. According to him the clay cartridges prepared by them are taken away lump sum and not on counting basis. From his cross-examination it will appear that his wife is also a clay cartridge maker. He was asked if in other collieries of CCL the clay cartridges are purchased at certain rate per thousand to which he expressed his ignorance as he had made no enquiries in this regard. A suggestion was made to him whether in Gidi-A colliery there are 3 clay cartridge suppliers including this witness, Jaso and Md. Nasima Khatoon to which he denied. He has also denied that the bills for payment of the clay cartridges are prepared in his name and in the name of Jaso and Nasima Khatoon and that the clay cartridge makers are paid by them. He does not know if before the conciliation officer a demand was made on their behalf that the Gola mati were pre-

pared through contractors and that a demand was made that the system of contract be abolished and the makers of clay cartridges be regularised by the colliery management. He has named the Peon who according to him used to supervise and look after the work of preparation of clay cartridges and the said man is named as Jakir Mian. There is one Jakir in Sl. No. 10 of the annexure to the schedule to the order of reference but according to him the said named Jakir Mian was not the Peon of the colliery who used to supervise their work. Some other suggestions were made to him on behalf of the management in the cross-examination to show that the concerned workmen were not the workmen and employees of Gidi-A colliery as stated by him WW-5 Kumari is wife of one Balko but she denied that her husband Balko is one of the concerned workmen and has stated that her husband is a contractor. We will examine separately if WW-5 Kumari is the wife of WW-1 Balko or some other Balko. WW-5 has stated that she is a clay cartridge maker at Gidi-A colliery since 15 years including all the concerned workmen and that they are paid directly by the colliery office. She has stated that their duty hour is from 8.00 A.M. to 4 P.M. and their worksite is near the include mouth. She has stated that she is getting wages @ Rs. 5/- per day Saturday by the clerk of the colliery. She has stated that each concerned workman is individually paid by the clerks of the colliery and that they give their L11 on the document of payment. She has stated that earth and water for preparation of clay cartridges is supplied to them by the colliery. It will appear from her evidence that no identity card from Gidi-A colliery was issued to any of the concerned workmen. She has denied that Balko is paid for the supply of clay cartridges by Gidi-A colliery. She knows Jaso and Nasima Khatoon who prepare clay cartridges and supply the same to the colliery. Nasima is named in Sl. No. 9 of the annexure to the schedule of reference. But Jaso is not named in the said annexure. It will thus appear from the evidence of WW-5 that Jaso and Nasima Khatoon who prepare clay cartridges are colliery. She has denied that only Balko, Jaso and Nasima Khatoon supply clay cartridges to the colliery and get payment. In further cross-examination she has stated that the concerned workman named Balko is not her husband and her husband is a Thikadar and not a workman in the case. There is another Balko who prepares clay cartridges with the concerned workmen. WW-1 on the other hand has stated that his wife is a clay cartridge maker. WW-5 has not disclosed the name of the wife of WW-1 and no witness has stated as to who is among the concerned workmen who is the wife of WW-1 Balko. On consideration of the facts it will appear that WW-1 Balko appears to be the husband of WW-5 and according to WW-5 her husband Balko is a contractor. Even WW-5 does not know the name of all the concerned workmen. She has named Bhanomati, Fule, Fulmani, Jitni and Balko who used to prepare clay cartridges at one place. Thus the evidence of WW-5 does not speak in favour of the other remaining concerned workmen.

WW-9 Shri Ramji Sahu is not one of the concerned workman and he has a tea stall just outside the compound of Gidi-A colliery. He has

stated that the concerned workmen are clay cartridge makers and that he had seen them preparing clay cartridges within the colliery premises. He has come to depose at the request of WW-1 Balko. His tea stall is located at a distance of about 200 yards from the office of the colliery. He has clearly stated that he is not at all concerned with the activities inside the colliery and he never took any interest in such activities. He has stated that he does not go inside the office as the colliery office is of big compound enclosed by the boundary walls with an entrance gate and a watchman on duty at the gate. He has stated that he knows the names of only 2 to 3 clay cartridge makers among the concerned workmen and cannot give the name and number of all clay cartridge makers. He had not seen Jaso and Nasima Khatoon although it is admitted by WW-5 that Jaso and Nasima Khatoon used to prepare and supply clay cartridges to Gidi-A colliery. These are the three witnesses on the point that the concerned workmen were preparing clay cartridges within the premises of the colliery. Their evidence that the concerned workmen were preparing clay cartridges near the incline mouth and that they were provided with clay, water, coal and shed for preparing the clay cartridges is not supported by any evidence except the evidence of WW-1, WW-3 and WW-5. Out of them WW-3 knows only 2 or 3 concerned workmen and W-5 knows six concerned workmen. Thus even those 3 witnesses do not specifically state about the other concerned workmen as being the clay cartridges makers working under the management of Gidi-A colliery.

In para-4 of the rejoinder filed by the concerned workmen it is stated that the concerned workmen are directly engaged by the colliery management for producing clay cartridges for use in the colliery on piece rate. The management in order to eat away the wages of the workmen and to deprive them from getting full wages, have managed to select 2-3 persons for this such illegal contracts. All the workmen are receiving payment direct from the management. This para-4 of the rejoinder is in connection with the reply of para-4 of the W.S. filed on behalf of the management where it is stated that the system of supply of clay cartridges from the suppliers is coming from time immemorial and generally 2 to 3 persons either male or female manufacture the clay cartridges and supply the same to the management of Gidi-A colliery. It is further stated that Smt. Jaso, Smt. Nasima Khatoon and Shri Balko were the three suppliers of clay cartridges of Gidi-A colliery who have their own arrangement for manufacturing the clay cartridges delivering the same and receiving payment on the basis of bills. Thus in the rejoinder of the workmen it is almost admitted that the management in order to eat away the wages of the workmen and to deprive them getting full wages have managed to select 2 or 3 persons for the supply of clay cartridges which is an illegal labour practice. It is not denied in para-4 of the rejoinder of the workmen that Smt. Jaso, Nasima Khatoon and Shri Balko were not the suppliers of clay cartridges to the

management of Gidi-A colliery. In a sense it admits that the payment was made to those 3 persons for the supply of clay cartridges Ext. W-3 are the bills in respect of the supply of clay cartridges by Shri Balko, Smt. Jaso and Smt. Nasima Khatoon. On perusal of the bills kept in a bundle of Ext. M-3 will show that Balko, Jaso and Nasima Khatoon had separately submitted their bills regarding the supply of clay cartridge and that payment was made to them. The fact that the payment was made for the supply of clay cartridge to the management by Gidi-A colliery is supported by Ext. M-3 series and also by the statement of facts in para-4 of the rejoinder of the workmen.

It will further appear from para-4 of the rejoinder of the workmen that the concerned workmen were directly engaged by the colliery management for producing clay cartridges for use in the colliery on piece rate. I would like to emphasise on the fact that the workmen claim to have worked on piece rate basis but now in the evidence before this Tribunal by the 2 witnesses WW-1 and WW-5 the claim is that they were paid @ Rs. 5/- per day. Thus the story of payment on piece rate basis has been given a go by and a new case has been developed in evidence to show that the concerned workmen used to get payment of wages on daily basis. The said development in the case appears to have been introduced as it was not possible for the concerned workmen to show that they were preparing clay cartridges on piece rate basis as in that case they would have been issued slips for the quantity of the clay cartridges prepared by them for the purpose of payment of their wages. As they were not working on piece rate basis it was not possible for them to produce evidence to that effect and as such the workmen changed their story that they were paid on the daily basis. In para-5 of the rejoinder it is again reiterated by the workmen that the workers were supplied all materials for production of clay cartridges within the colliery and they were paid in piece rate basis which is much less than the approved minimum wage for the employees of the colliery mine. This fact also shows that the concerned workmen neither worked on piece rate nor on daily rate basis.

Had the management supplied in the manufacture of clay cartridges to the concerned workmen we could have expected some evidence on that score. It will appear from the evidence of WW-1 that the management supplied coal for drying the clay cartridges during rainy season and the said coal used to be supplied on trucks. The workmen did not examine any truck driver to show that either clay or coal was supplied to the concerned workmen for the preparation of the clay cartridges. No witness is coming forward from the colliery to support the case of the concerned workmen. A Panwala WW-3 who has been examined in this case is an outsider whose evidence does not appear to be a very effective for establishing the case of the workmen.

It has nowhere been asserted by the workmen that the attendance of the concerned workmen was

being maintained by the management. Had the concerned workmen been the employees of Gidi-A colliery the management must have maintained their attendance Register for the payment of their wages. Admittedly no identity card was issued to the concerned workman. It has come in the evidence that the workmen of the colliery generally issued with their identity card and had the concerned workmen been the workmen of Gidi-A colliery the identity card must have been issued to them as it is on the basis of the identity card that entrance in the colliery is allowed to be made and it is on the basis of the identity card that payment of wages is made to an individual workman. No witness had been examined to show that the concerned workmen were seen taking their wages from the colliery office. Even WW-5 has stated that earth and water for preparation of clay cartridges was supplied by the colliery and she has not stated that Coal used to be supplied to them by the management for drying up the clay cartridges in the rainy season. The workmen did not examine in support of their case any workman connected with colliery in support of the fact that the concerned workmen were seen preparing clay cartridges near the incline mouth and that the management used to provide them with earth water, coal and shed for the preparation of the clay cartridges. MW-2 Shri A. B. Sharan had worked in Gidi-A colliery since 1965 to 1981, in different capacities such as Mining Sirdar, Overman and under Manager. He has stated that they were purchasing clay cartridges from the suppliers. He has stated that Shri Balko, Smt. Nasima Khatoon and Smt. Jaso were suppliers of clay cartridges in Gidi-A colliery. He has also stated that those suppliers were free to supply clay cartridges to other collieries also. It has been submitted on behalf of the workmen that if those 3 persons were the suppliers of clay cartridges to Gidi-A colliery the management must have called for tenders for its suppliers. Thus MW-2 has stated that there is no system of inviting tenders for supply cartridges and that in the case of small purchase tenders are not invited and he has stated that suppliers bring the clay cartridges in head at the incline mouth and it is received at the incline mouth and suppliers get the bills for the clay cartridges prepared which are sent to the colliery office and payment is made thereafter. He has stated about the voucher Ext. M-3 series in respect of which I have already discussed. He has also stated that no daily accounting of clay cartridge is kept in the colliery as it is a cheap and directly consumable item. He has stated that Gidi-A colliery are surrounded by a compound wall and a security guard is posted at the gate where workers have to show the identity card in order to enter the office. He has also stated that no register is kept for receipt of clay cartridges from the suppliers. He has also stated that there is no written agreement with the suppliers. He has stated that the supplier of clay cartridges are paid at the cash counter of the colliery. He had seen Nasima Khatoon and Balko in Gidi-A colliery as suppliers of clay cartridges which is purchased @ Rs. 10/- per thousand. He has denied that the concerned workmen are the workers of Gidi-A colliery. He has also denied that the concerned

workmen were supplied with earth, water and work-side for the preparation of clay cartridges to the concerned workmen. There is nothing in the cross-examination of MW-2 to falsify his evidence.

MW-4 Shri Jagdish Pd. Singh is working in the Cash department of Gidi-A colliery since 1971. His duties as Sr. Cashier was to collect cash and to make payment and to make entries in the same in the Cash Book. He has stated that he used to make payment to the clay cartridge suppliers. He has stated that Balko, Smt. Jaso and Smt. Nasima Khatoon supplied clay cartridges in Gidi-A colliery whom he knew and was making payment to them. He has stated that Balko had put his signature on the vouchers and Smt. Nasima Khatoon and Jaso had put their LTI in Ext. M-3 series. The said bills bear the signature of the accounts official and Dy. Chief Mining Engineer or sub-area manager relating to sanction of payment. He was not actually concerned with the preparation of the clay cartridges who was concerned with the payment of supply of clay cartridges and according to him the three suppliers used to get payment for the supply of clay cartridges at Gidi-A colliery. The evidence of MW-2 and MW-4 coupled with Ext. M-3 series clearly show that Shri Balko and Smt. Jaso and Nasima Khatoon used to supply the clay cartridges at Gidi-A colliery and that they used to receive payment as suppliers of clay cartridges on the basis of the bills passed by the colliery management. Nothing has been taken in the evidence of the management's witnesses to establish that the payment used to be made to each individual concerned workmen on weekly basis on Saturday on daily rate basis.

MW-9 Shri Upendra Narain was working as Dy. Personnel Manager of CCL at Barkakhana. He has proved Ext. M-7, M-8 and M-9. Ext. M-7 is a notice issued by the ALC(C) Hazaribagh to the General Manager, Barkakhana of CCL, Argada group of CCL, and Sirka and the Vice President of Jharkhand Mazdoor Sangh which union had sponsored the present industrial dispute. It is in respect of the strike notice given by the union with effect from 21-2-81 over the demand of the regularisation of the workers engaged in clay cartridge supply at different collieries, Ext. M-8 dated 4-2-81 is a Strike notice given by Jharkhand Mazdoor Sangh to the General Manager, Barkakhana and Argada. Sirka Group. Ext. M-9 dated 12-12-80 is a memorandum submitted to the General Manager of CCL Sirka by the Secretary, Jharkhand Mazdoor Sangh. The memorandum will show in item No. 6 that the demand was that the job of clay cartridge makers was purely a contract job and that permanent nature of job cannot be given any contract under contract Labour Regulation and Abolition Act, 1972. A request was made on behalf of the union that considering the fact that the 30 workmen engaged in making clay cartridges should be taken in the roll of Gidi-A colliery. This document is not accepted by the workmen but I do not find any reason to disbelieve it. It appears from Ext. M-9 that the concerned workmen were working under contractors in the preparation of clay cartridges and as such demand was made that a permanent nature of job like that of clay cartridge

makers cannot be given any contract. It shows therefore that the union had at initial stage claimed that the clay cartridge makers were working under the contractors and that the contract work in respect of permanent nature of job in a colliery cannot be done through a contractor under the Contract Labour Regulation and Abolition Act, 1972. Thus this document also shows that the clay cartridge makers were working under the contract who used to supply the clay cartridges in Gidi-A colliery and as such the union was demanding that the clay cartridge makers working under the contractor should be taken as workmen of Gidi-A colliery. This evidence has been adduced to show that the concerned workmen were not actually working in Gidi-A colliery as workmen of Gidi-A colliery and that they were actually working under contractors.

In view of the facts evidence and circumstances discussed above I hold that there is no employer employee relationship between the management of Gidi-A colliery and the concerned workmen. I also hold that the concerned workmen were not direct employees of Gidi-A colliery who may be the clay cartridge makers of the suppliers of clay cartridges to Gidi-A colliery.

As already discussed above I hold that the management did not provide with any facility for the preparation of the clay cartridges to the concerned workmen inside Gidi-A colliery premises. The management was concerned only with the supply of the clay cartridges from the suppliers and as the clay cartridges were not prepared in the colliery premises it appears that the clay cartridges were prepared by the clay cartridge makers at their own place.

As already discussed above I hold that the management used to make payment for the supply of clay cartridges to the suppliers Shri Balko, Smt. Jaso and Smt. Nasima Khatoon I further hold that there is absolutely no evidence to show that the management used to make direct payment of the wages to the concerned workmen.

Point No. 4

One of the criteria to establish the relationship of an employer and employee is whether the workmen were working under the control and supervision of the employer. According to the management the suppliers used to get the clay cartridges prepared under their control and supervision and that the management had no control or supervision over the work of the clay cartridge makers. WW-1 has stated that a Peon named Jakir Mian used to look after the work of the concerned workmen in the preparation of clay cartridges. There is no paper or evidence of any individual witness to show that Jakir Mian was making supervision of the work of clay cartridge makers. The workmen did not examine even Jakir Mian to show that Jakir Mian was supervising the work of the concerned workmen. In fact the job of clay cartridge making is a job of unskilled workers requiring any separate handling of the size of the clay cartridges are standard size and there is nothing for the management to supervise the work of clay cartridge makers. I has already been discussed and decided above that the clay cartridge makers were

not preparing the clay cartridges in the premises of Gidi-A and that they were preparing clay cartridges under the suppliers and as such there is no reason for the management to dispute a Peon to supervise the work of the clay cartridge maker. The evidence of WW-1 is a lose evidence on the point of supervision of the work of the clay cartridge makers by a Peon of the colliery. There is absolutely no mention of the fact of supervision by the management in the job of clay cartridge making by the concerned workmen in written statement filed by the workmen. For all these reasons I hold that the management did not hold any supervision on the job over the clay cartridge makers.

In the result, I hold that the demand of the workmen for regularisation and payment of Cat. I wages to the 20 concerned workmen by the management of Gidi-A colliery by BCCL is not justified and consequently the concerned workmen are entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer.

(No. L120012(296)80.D.III(A)TR)Cool-I)

नई दिल्ली, 15 अक्टूबर, 1989

का. आ. 2463.—श्रीधोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्युत्तर में, केंद्रीय सरकार, मौसम भारत कोकिं कोल लिमिटेड का गया प्रोजेक्ट, मोहुदा परिया मं. 2 के प्रबंधन से संबंधित नियोजकों द्वारा उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीधोगिक विवाद में केंद्रीय सरकार श्रीधोगिक अधिकरण, (स. 1) धम्बाद के पांचाट को प्रकाशित करती है।

New Delhi, the 15th September, 1989

S.O. 2463.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bharungia Project, Mohuda Area No. II, M/s. BCC Ltd. and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT

INDUSTRIAL TRIBUNAL NO. I, DHANBAD

(In the matter of reference under Section 10(1)(d) of the Industrial Disputes Act, 1947).

REFERENCE NOS. 56/82, 72/82 & 67/83.

PARTIES :

Employers in relation to the management of Bharungia Project in Mohuda Area No. II of M/s. Bharat Coking Coal Ltd., P. O. Mohuda, Distt. Dhanbad

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers : Shri G. Prasad, Advocate and Shri B. N. Prasad, Advocate.

For the Workmen : Shri D. Mukherjee, Advocate and Shri S. Bose, Secretary, R.C.M.S., (Represented in Reference No. 56/82).

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 31st July, 1989.

AWARD

The Central Government, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, was pleased to refer the following three Industrial Disputes for adjudication by this Tribunal :

REFERENCE CASE NO. 56 OF 1982.

(Order No. L-20012 (394) /81-D. III(A) dt. 11-5-1982)

SCHEDULE

"Whether the demand of the workmen of Bhurungia Project in Mohuda Area No. II of Messrs Bharat Coking Coal Limited, P. O. Mohuda, District Dhanbad that the previously retrenched workmen of the Bhurungia Colliery when it was closed in 1962, whose names are given in the 'A', 'B' and 'C' below, should be reinstated by the management, keeping in view the terms of settlement dated 9-3-1962, is justified ? If so, to what relief are the workmen concerned entitled and from what date ?

ANNEXURE 'A'

1. S/Shri Ramswarup Pashi.
2. " Kalu Pashi—4.
3. " Ram Nath Pashi (1).
4. " Argun Pashi (1).
5. " Cagan Pashi.
6. " Mati Pashi.
7. " Samodhi Pashi.
8. " Ram Jatan Gareral.
9. " Khetan Pashi.
10. " Jala Pashi.
11. " Sitaram Pashi.
12. " Nankhu Pashi.
13. " Babulal Pashi—I.
14. " Panilal Pashi.
15. " Thaloo Pashi
16. " Jagder Pashi.
17. " Bhagirath.
18. " Babu Lal Pashi—II.
19. " Mahranidin.
20. " Shirlam.
21. " Kishore Gararia.
22. " Ram Kumar-II.
23. " Arjun-II.
24. " Basjnath.
25. " Deoki.
26. " Chure Pashi.
27. " Bublal Pasi.
28. " Satai Pasi
29. " Nandjal Pasi.
30. " Mukhu.
31. " Ram Narain.
32. " Pancho.
33. " Mundal Pasi—II
24. Shri Sitaram Pasi-III
35. " Bhagaloo Pasi-I.
36. " Ram Khalwan.
37. " Mutukohari.
38. " Jageswar.
39. " Esnafmiu.
40. " Harilal Pasi-II.
41. " Harilal Pasi-III.
42. " Manilal Pasi-I.
43. " Ram Sumar.
44. " Mangru Pasi.
45. " Chadi Pasi.
46. " Ramadhar.
47. " Parashnab.
48. " Rameshwa.
49. " Deomurath Gop.
50. " Sankanatha Gop.
51. " Maghu Bhuiyan.
52. " Kasher-II.
53. " Manki Bhuiyan.
54. " Ramdhari Bhuiyan.
55. " Jageshwar.
56. " Balabind.
57. " Bandhu Bhuiyan.
58. " Deoraj Bhuiyan.
59. " Ramdhin Gope.
60. " Darat Bhuiyan.
61. S/Shri Bidya Parsad Sukul.
62. " Banarshi Saw.
63. " Jibal Dusadh.
64. " Babu Ghosh.
65. " Chamarik Dusadh.
66. " Pakum Bhuiyan.
67. " Ramkhelawan Praja.
68. " Randas Saw.
69. " Kuldip Gope.
70. " Karu Turi.
71. " Mana Pasi.
72. " Alimja.
73. " Bhikkhari Rabidas.
74. " Babulal Prajapathi.
75. " Birshaspat Turi.
76. " Mururam Turi.
77. " Savan Mooraghi.
78. " Chaitu Pasi.
79. " Ram Sundar Gurm.
80. " Kalu Pasi II.
81. " Kamlesha Pasi.
82. " Duduanath Pashi.
83. " Kalu Pashi.
84. " Dudhanath No. 2.
85. " Proboth Pathak.
86. " Sachidanand Tewari.
87. " Parash Nath Singh.
88. " Meghu Dusadh.
89. " Amar Singh.
90. " Srinibas Singh.
91. " Sarat Misir.
92. " Mukut Gope.
93. " Suren Khawaw.
94. " Phutuk Chand Narit.
95. " Murat Singh.
96. " Bhuban Gope.
97. " Baju Bhuiya.
98. " Sukar Bhuiya.
99. " Bajju Bhuiya.
100. " Banshi Bhuiya.
101. " Bangali Bhuiya.
102. " Rajaram Gope.

103.	Shri Moti Shaw.	25.	Shri Nageshwar Dushadh.
104.	" Ramkripal.	26.	" Mohan Turi.
105.	" Pitha Dusad.	27.	" Nepal Turi.
106.	" Suresh Singh.	28.	" S. P. Chatterjee.
107.	" Sadhu Mahato.	29.	" Sita Ram Kunou.
108.	" Mohar Rewani.	30.	" Ratua Rawani.
109.	" Raghunath Mahato.	31.	" Gouri Kant Pathak.
110.	" Gouri Kant Pathak.	32.	" Fagu Gorai.
111.	" Rasik Singh.	33.	" Reghee Rawani.
112.	" Chandra Kamin.	34.	" Pandey Pathak.
113.	" Amiya Kamin.	35.	" Sital Bauri.
114.	" Nankoo Dusadh.	36.	" Bhikhan Bouri.
115.	" Ramu Roy.	37.	" Gokul Napit.
116.	" Suraj Narain Tiwari.	38.	" Sona Ram Mahato.
117.	" Praja Bouri.	39.	" Jati Lal Mahato.
118.	" Baidmath Tiwari.	40.	" Rashik Singh.
119.	" Lachhaman Singh.	41.	" Sosha Mahato.
120.	" Jaapsi Gope.	42.	" Arjun Rawani.
121.	" Bishu Napit.	43.	" Telin Seka.
122.	" Ramkrit Dusadh.	44.	" Ananth Khawas.
123.	" Anant Khawas.	45.	" Karma Pashee.
124.	" Prabhunath Singh.	46.	" Nanku Dusadh.
125.	" Md. Jan Khan.	47.	" Fatele Chand Napit.
126.	" Mangal Shaw.	48.	" Dharma Rawani.
127.	" Charku Bhunya.	49.	" Md. Jan Khan.
128.	" Bidesi Bhuiya.	50.	" Retu Rawani.
129.	" Sukar Bhuiya II.	51.	" Baljnath.
130.	" Nago Bhuiya.	52.	" Raghu Nath Singh.
131.	" Sethu Mahato.	53.	" Maheree Rawarni.
132.	" Bagli Dusadh.	54.	" Abdul Mian.
133.	" Muneswar Gope.	55.	" Bhagwan Dushadh.
134.	" Gopal Shaw.	56.	" Rasanalal Rewani.
135.	" Samresh Singh.	57.	" Kanee Rawani.
136.	" Sohar Ram.	58.	" Suran Khawas.
137.	" Jairam Kundl.	59.	" Rupan Rawarni.
138.	" Bharat Mahato.	60.	" Ahuai Khan.
139.	" Dulal Singh.	61.	" Bhukal Rawani.
140.	" Debu Rewani.	62.	" Manik Rawani.
141.	" Pandey Pathak.	63.	" Suchi Napit.
142.	" Aklo Hari.	64.	" Jagu Rawani.
143.	" Falaichi Kamin.	65.	" Radhu Mochi.
144.	" Shyam Pada.	66.	" Raghu Nath Mahato.
145.	" Nepal Dusadh.	67.	" Dobu Pashi.
146.	" Sahdeo Hari.	68.	" Dhamia Pashi.

ANNEXURE—'B'

1.	S/Shri	Triban Mahato.	69.	"	Jagume Pashi.
2.	"	S. N. Tiwary.	70.	"	Sardhar Mochi.
3.	"	Babu Kori.	71.	"	Rellel Khan.
4.	"	Probodh Pathak.	72.	"	Narayan Mandal.
5.	"	Anath Das.	73.	"	Aghnu Lohar.
6.	"	Nanila Rawani.	74.	"	Aklu Rawani.
7.	"	Rakhal Rawani.	75.	"	Rabi Shaw.
8.	"	Sashi.	76.	"	Poehan Mochi.
9.	"	Sachitanand Tiwary.	77.	"	Rese Ali Khan.
10.	"	Broja Bauri.	78.	"	Potua Dushadh.
11.	"	Rangali Bhuiya.	79.	"	Sabish Pandey.
12.	"	Sathu Mahato.	80.	"	Bharat Mahato.
13.	"	Saret Mishra.	81.	"	Raja Ram Gope.
14.	"	Bishu Napit.	82.	"	Sahaj Ram.
15.	"	Srinivas Singh.	83.	"	Gopal Ram.
16.	"	Paras Singh	84.	"	Sibu Mahato.
17.	"	Raghu Dushadh.	85.	"	Aadhu Mahato.
18.	"	Jethee Mhato.	86.	"	Panu Roy.
19.	"	Rammrit Dushadh.	87.	"	Sital Rawani.
20.	"	Jhapasi Gope.	88.	"	Ram Kripal.
21.	"	Bachan Singh.	89.	"	Jai Ram Kundu.
22.	"	Amar Singh.	90.	"	Mohan Rawani.
23.	"	Matuk Gope.	91.	"	Deo Lal Singh.
24.	"	Bhola Mahato.	92.	"	Suresh Singh.
			93.	"	Moti Bhuiya.

94. Shri Kkti Hari.
95. " Chandra Kamin.
96. " Elashi Kamin.
97. " Anil.
98. " Sahdeo Hari.
99. " Mahendra Singh.
100. " Debraj Rawani.
101. " Upashi Khan.

ANNEXURE—'C'

1. S/Shri H. P. Mishri.
2. " S. P. Upadhyaya
3. " Gopal Dasadh.
4. " S. P. Lala.
5. " S. N. Sahai.
6. " Chhota Singh.
7. " Ved Kumari.
8. " P. Singh.
9. " M. P. Tank.
10. " P. N. Rathore.
11. " A. B. Paul.
12. " T. C. Dutta.
13. " R. S. Mahato.
14. " Dalpat Lal.
15. " Sheo Govind Singh.
16. " Rajnaudan Singh.
17. " Jagadish Singh.
18. " Tara Rewani.
19. " Ram Saran Singh.
20. " Ramnath Singh.
21. " Biranand Manjhi.
22. " Harjan Singh.
23. " Parashnath Singh.
24. " Saligram Singh.

REFERENCE CASE NO. 72 OF 1982.

(Order No. L-20012(99)180. D. III(A)

Dated : 24-11-1982).

SCHEDULE

Whether the demand of the workmen of Bhurungia Project in Mohuda Area No. II of Messers Bharat Coking Coal Limited, P. O. Mohuda, Distt. Dhanbad that the workmen listed in the Annexure below, who were previously retrenched from the Bhurungia Colliery when it was closed in 1962, should be reinstated by the management, keeping in view the terms of settlement dated 9-3-1962, is justified ? If so, to what relief the workmen concerned are entitled and from what date ?

ANNEXURE

1. Shri Upendra Nath Upadhyaya
2. Shri Amulaya Ratan Dubey
3. Shri Arjun Rewani
4. Shri Sheikh Ramjan
5. Shri Shekhi Chhutu
6. Shri Sjelh Miya Chhutu
7. Shri Shekh Ali Hussain
8. Shri Nakul Rawani
9. Shri Shasi Rawani
10. Shri Rakhal Rawani
11. Shri Rijhu Rawani
12. Shri Shekh Duma
13. Shri Sankar Rawani
14. Shri Rithu Rawani
15. Shri Sahdev Bhuia
16. Shri Bhim Rawani
17. Shri Hitu Rawani
18. Shri Maji Rawani
19. Shri Jagdish Rawani
20. Kanu Rawani.
21. Shri Dasrat Mahto
22. Shri Gopal Dusad
23. Shri Dhani Rawani
24. Shri Ghunu Rawani
25. Shri Sheikh Kajab
26. Shri Bindeswar Rawani
27. Shri Tilak Rawani
28. Shri Narain Mallah
29. Shri Bisu Napit
30. Shri Math Gope
31. Shri Dharmil Rawani
32. Shri Delu Rawani
33. Shri Jagu Rawani
34. Shri Pachu Rawani
35. Shri Rajnandan Singh
36. Shri Somar Rawani
37. Shri Gabadhan Rawani
38. Shri Chigu Gope
39. Shri Nageshwar Dusad
40. Shri Nago Bhuia
41. Shri Raju Bhuia
42. Shri Lakan Bhuia
43. Shri Jethu Bhuia
44. Shri Moti Bhuia
45. Shri Kameshwar Bhui
46. Shri Mohan Bhui
47. Shri Biseni Bhuni
48. Shri Sukari Bhuni
49. Shri Gori Shankar
50. Shri Ismamali Sheikh
51. Shri Dinanath Mudak
52. Shri Barojo Baria
53. Shri Budhu Mia
54. Shri Hari Mahato
55. Shri Gopal Mahato
56. Shri Hari Lal Mahato
57. Shri Janu Mahato
58. Shri Nakol Mahato
59. Shri Daman Mahato
60. Shri Fagu Mahato
61. Shri Kisto Mahato.
62. Shri Shisty Mahato.
63. Shri Kalicharan Mahato.
64. Shri Giri Mahato.
65. Shri Girish Joswama.
66. Shri Khedan Joswama.
67. Shri Parza Mahato.
68. Shri Gopal Joswama.
69. Shri Gagan Joswama.
70. Shri Meheswar Joswama.
71. Shri Chaman Joswama.
72. Shri Kampash Mahato.
73. Shri Aghanu Karmakar
74. Shri Suku Mahato.
75. Shri Gokhul Napit
76. Shri Khadan Mahato.
77. Shri Mahabir Mahato
78. Shri Hitu Ray.
79. Shri Aklu Rawani
80. Shri Lolin Mahato.
81. Shri Chakradhar Goswami
82. Shri Rameswar Goswami.
83. Shri Sripati Goswami.
84. Shri Fagu Goswami.
85. Shri Ramzanand Goswami

86. Shri Sohai Mahato.
87. Shri Mani Mahato
88. Shri Janki Mahato
89. Shri Probod Goswami
90. Shri Basir Khan
91. Shri Sirat Mahato.
92. Shri Ahab Khan.
93. Shri Mohammed Hussain.
94. Shri Jitu Mahato.
95. Shri Rajde Khan.
96. Shri Sekhawat Sheikh.
97. Shri Hulag Goswami,
98. Shri Karim Khan.
99. Shri Murad Kori.
100. Shri Bhikhan Bawri.
101. Shri Nadu Kori.
102. Shri Ramjan Khar.
103. Shri Babu Kazi.
104. Shri Riyazuddin Khan.
105. Shri Sheikh Munir.
106. Shri Rashid Khan
107. Shri Radhu Muchi
108. Shri Moti Muchi.
109. Shri Jadu Muchi.
110. Shri Nathu Muchi
111. Shri Makund Muchi.
112. Shri Panu Mahato.
113. Shri Begay Mahato.
114. Shri Nakul Muchi.
115. Shri Khedu Mahato.
116. Shri Kadir Main.
117. Shri Ibrahim Mian.
118. Shri Salim Mian
119. Shri Raghu.
120. Shri Shiv Nanday Dusad.
121. Shri Makund Gope.
122. Shri Raghu Dusad.
123. Shri Alka Rawani.
124. Shri Rama Mahato.
125. Shri Bhadri Mahato.
126. Shri Acham Mahato.
127. Shri Tilak Mahato.
128. Shri Shankar Mahara.
129. Shri Fagu Mahara.
130. Shri Mahi Mahato.
131. Shri Biru Mahara.
132. Shri Raghu Mahato.
133. Shri Hirulal Mahato
134. Shri Paru Raoy
135. Shri Abdul Sheikh.
136. Shri Shipoo Mahato.
137. Shri Lachhu Mahato.
138. Shri Narayan Mahato.
139. Shri Bharat Mahato.
140. Shri Sadu Mahato.
141. Shri Muhammad Jan.
142. Shri Jageshwar Mahato.
143. Shri Dasu Mahato.
144. Shri Segir Sheikh.
145. Shri Deblal Goswami,
146. Shri Ayub Sheikh

REFERENCE CASE NO. 67, OR. 1983.

(Order No. L-20012 (137) /83-D, III-(A),
dated, 13-9-1983).

SCHEDULE

"Whether the demand of the workmen of Bhurungia
project of Messrs Bharat Coking Coal Limited, P.

O. Mohuda, Distt. Dhanbad that the workmen listed in Annexure below who were previously retrenched from the Bhurungia Colliery where it was closed in 1962 should be reinstated by the management keeping in view the terms of settlement dated 9-3-1962 is justified ? If so, to what relief are the workmen concerned entitled and from what date ?"

ANNEXURE

Sl. No.	Name of Workers.
1.	Malti Manjhan
2.	Bhulia Kamin.
3.	Kundu Kamin.
4.	Upasi Kamin No. I.
5.	Bhukli Kamin.
6.	Shoshila Kamin.
7.	Upasi Kanjhian No. II.
8.	Koshilya Kamin.
9.	Fulia Kamin.
10.	Chandmani Kamin.
11.	Surjee Kamin.
12.	Sonamuni Kamin.
13.	Lipna Kamin.
14.	Fulmani Kamin.
15.	Charki Kamin.
16.	Numu Kamin.
17.	Upasi Kamin No. III.
18.	Srimati Manjhan.
19.	Sadmuni Kamin.
20.	Jhamri Kamin.
21.	Futia Kamin.
22.	Dekwa Kamin.
23.	Nuniya Kamin.
24.	Chuki Kamin.
25.	Somri Kamin.
26.	Sarda Kamin.
27.	Rashmani Kamin.
28.	Rushni Kamin.
29.	Alumuni Kamin.
30.	Bashni Kamin.
31.	Talwa Kamin.
32.	Sonamuni Kamin.
33.	Mungli Manjhan.
34.	Bahamuni Kamin.
35.	Kamli Kamin.
36.	Sonamuni Kamin.
37.	Sanghna Kamin.
38.	Nirlya Kamin.
39.	Sikri Kamin.
40.	Chhutia Kamin.
41.	Guja Manjhee.
42.	Kashi Manjhi.
43.	Sonu Manjhee.
44.	Sukoo Manjhee.
45.	Chankoo Manjhi.
46.	Baburam Manjhi.
47.	Sipis Manjhi.
48.	Jagan Manjhi.
49.	Kalpu Manjhi.
50.	Bishun Manjhi.
51.	Durjan Manjhi.
52.	Baijo Manjhi.
53.	Somar Manjhi.
54.	Sikra Manjhi.
55.	Rashik Manjhi.
56.	Robi Manjhi.
57.	Hopan Manjhi.

58. Dipchand Manjhi.
 59. Sahabram Manjhi.
 60. Monu Manjhi.
 61. Baba Manjhi.
 62. Maha Manjhi.
 63. Samu Manjhi.
 64. Meghu Manjhi.
 65. Basu Manjhi.
 66. Jhalur Manjhi.
 67. Berga Manjhi.
 68. Rameshwar Manjhi.
 69. Kalu Manjhi.
 70. Sufal Bauri.
 71. Sukar Bouri.
 72. Sonatan Bouri.
 73. Nepal Dhobe.
 74. Laloo Mahra.
 75. Ganesh Dhoba.
 76. Panchu Mahra.
 77. Pocha Muchi.
 78. Chhutu Mahra.
 79. Bhim Mahra.
 80. Arjun Mahra.
 81. Ram Dhanji Mahara.
 82. Rupan Mahra.
 83. Gobradhan Mahra.
 84. Budhu Mahra.
 85. Raghu Mahra.
 86. Debu Mahra.
 87. Lalit Mahra.
 88. Mohan Mahra.
 89. Diplal Mahra.
 90. Sambhu Mahra.
 91. Bhusan Mochi.
 92. Moti Dhoba.
 93. Chamtu Turi.
 94. Bhanu Rabidas.
 95. Kanhu Rabidas.
 96. Pocha Rabidas.
 97. Sambhu Dome.
 98. Murad Koiri.
 99. Nandu Koiri.
 100. Khetu Malhi.
 101. Raghu Dusadh.
 102. Moti Muchi.
 103. Jadu Muchi.
 104. Alka Minya.
 105. Shekh Riaz Ali Khan.
 106. Shekh Abab Khan.
 107. Shekh Rayaz Khan.
 108. Hussan Khan.
 109. Md. Khan.
 110. Imdad Khan.
 111. Karim Khan.
 112. Narayan Modak.
 113. Maheshwar Mahto.
 114. Mana Mahto.
 115. Sohrai Mahto.
 116. Narayan Malha.
 117. Kintu Matho.
 118. Shikhtry Mahto.
 119. Jetan Mahto.
 120. Deblal Mahto.
 121. Futuk Chard Nupit.
 122. Sachiram Nupit.
 123. Dulal Ray.
 124. Bhekhu Ray.
 125. Bhola Ray.
 126. Ashu Mahto.
 127. Bucha Mahto.
 128. Kanilal Mahto.
 129. Danku Mahto.
 130. Hemlal Mahto.
 131. Sura Mahto.
 132. Aklu Mahto.
 133. Babulal Mahto.
 134. Nagar Gorain.
 135. Lakhiram Girain.
 136. Shibu Mahtto.
 137. Subedar Gope.
 138. Punit Gope.
 139. Sudan Gope.
 140. Chandu Gope.
 141. Setu Gope.
 142. Meghu Gope.
 143. Kisto Mahto.
 144. Rabi Mahto.
 145. Budhu Mahto.
 146. Mohan Mahto.
 147. Gayaram Mahto.
 148. Bhusan Mahto.
 149. Bishun Mahto.
 150. Sona Ram Mahto.
 151. Lakhiram Mahto.
 152. Rit Suran Mahto.
 153. Sahabram Mahto.
 154. Hubdal Mahto.
 155. Joti Mahto.
 156. Kamal Mahto.
 157. Dugeshwar Mahto.
 158. Banshi Mahto.
 159. Chhutu Mahto.
 160. Gobin Ray.
 161. Dharu Mahto.
 162. Shambhu Mahto.
 163. Moti Ray.
 164. Gorilal Ray.
 165. Joty Ray.
 166. Bipan Ray.
 167. Jagdish Mahto.
 168. Sitaram Gorain.
 169. Shubinath Gorain.
 170. Lewa Mahto.
 171. Chinta Mahto.
 172. Jadu Mahto.
 173. Jeetu Mahto.
 174. Amrit Mahto.
 175. Khedu Mahto.
 176. Sudan Mahto.
 177. Jagdish Mahto, No. 11.
 178. Sanjay Rewani.
 179. Jugal Rewani.
 180. Gojo Mahto.
 181. Bistoo Mahto.
 182. Bihari Mahto.
 183. Radhu Rewari.
 184. S. K. Pandey.
 185. S. N. Lala.
 186. Durga Charan Pandey.
 187. Sudu Gope Pandey.

2. On the application of the management dated 0-10-83 for analogous hearing of all these three cases, Mr. Justice Monaranjan Prasad, my learned predecessor in office by

order dated 14-11-1983 was pleased to decide that all these three reference cases would be heard and disposed of analogously. His order runs as follows :

"A perusal of the terms of the present Reference No. 55/82, Reference No. 67/83 and Reference No. 72/82 would show that the terms of reference are identical and the management in all the three cases is the management of Bhurungi Project of Mohuda Area No. II of M/s. Bharat Coking Coal Ltd., and only the workmen, whose number is large, differ in all the three cases. It, therefore, seems to be a fit case in which Reference Nos. 72/82 and 67/83 should be made analogous with the present Reference No. 55/82 as the common question of law and facts are involved in all the three cases and hearing them separately would mean unnecessary loss of time and complications as well as expenditure of the parties. Therefore, Reference No. 72/82 and Reference No. 67/83 are made analogous with the present Reference No. 55/82 to be heard and disposed of together."

3. The case of the management of Bhurungiya Prefer he dispute for adjudication by this Tribunal and written statement in Reference case No. 55/82, is as follows —

The Central Government is beyond its powers to refer the dispute for adjudication by this Tribunal and this Tribunal also has got no jurisdiction to adjudicate upon or make any award in respect of the alleged dispute. Bhurungiya Colliery was closed by the persons formerly operating it pursuant to an order in terms of Section 22(3) of the Mines Act with effect from 21-2-62 and the services of all workmen employed in the said mine was duly terminated as a result of such closure. The management of Bhurungiya Colliery did not vest in the Central Government by reasons of the provisions of the Coking Coal Mines (Emergency Provisions) Act, 1971 and the undertaking of Bhurungiya Colliery did never vest in the Central Government nor in any Government Company, nor in B.C.C. Limited by reason of the provisions of Coking Coal Mines (Nationalisation) Act, 1972. None of the persons named in the Annexure was ever employed by M/s. B.C.C. Ltd. In the premises none of the persons named in the Annexure has any right to be employed by M/s. B.C.C. Ltd. Furthermore, the workmen of M/s. B.C.C. Limited have no community of interest with any such person. Besides, the present reference is incompetent inasmuch as the termination of services of workmen upon closure of an undertaking is not retrenchment and there can be no order for reinstatement of workmen after closure. The alleged settlement dated 9-3-1962 (assuming it to be genuine which is not admitted) has no legal force or effect under the Industrial Disputes Act because no industrial dispute can arise out of a closure and an industrial dispute can be settled only by a settlement under the Industrial Disputes Act.

4. The case of the workmen represented by Bihar Colliery Kamgar Union is as follows :

Ram Swarup Passi and other concerned workmen had been working in Bhurungiya Colliery as permanent workmen sine long. They were members of Provident Fund. All of them had rendered continuous service prior to their retrenchment in 1962. The mine was closed with effect from 21-2-62 under the

order of Department of Mines for violation of Section 22(3) of the Mines Act. The then management retrenched the concerned workmen along with others with effect from 21-2-1962 without paying any retrenchment compensation as per Section 25-F of the Industrial Disputes Act. The workmen in general protested against the illegal and arbitrary retrenchment and against non-payment of retrenchment compensation and other dues. The General Secretary of Hindustan Khan Mazdoor Sangh raised an industrial dispute before the A.L.C. (C). Dhanbad for intervention and conciliation by challenging the retrenchment order. During the course of conciliation proceedings a conciliation settlement was arrived at on 9-3-1962 between the management of Bhurungiya Colliery and the workmen represented by Hindustan Khan Mazdoor Sangh. The terms of conciliation settlement was that—

"The workmen shall be treated as on leave without pay from 2-3-62 till the colliery re-opens without affecting their continuity of service."

Claim cases under Payment of Wages Act was filed by the R.L.C. (C) before Sub-Divisional Officer, Bagmara for recovery of wages of the workmen of Bhurungiya Colliery as per terms of tripartite settlement. The cases were settled as per compromise petition filed jointly by the parties. Bhurungiya Colliery along with other Coking Coal Mines was taken over by the Central Government with effect from 17-10-71 and subsequently nationalised with effect from 1-5-72 and handed over to M/s. B.C.C. Ltd. The concerned workmen represented before the management of B.C.C. Ltd., for allowing them to resume their duties immediately after nationalisation of the colliery but without any effect. M/s. B.C.C. Limited re-opened the colliery with effect from 29-4-76 by starting operation of pumping work. Immediately after re-opening of the mine the concerned workmen represented before the management and also to the Secretary, Government of India, Ministry of Labour for their reinstatement with full back wages, but without any effect. The R.L.C. (C) in pursuance of representations of the concerned workmen, directed them to raise an industrial dispute by letter dated 6-3-76. He also directed the then Chief Personnel Manager of M/s. B.C.C. Limited by letter dated 5-11-76 to discuss the demand of the concerned workmen for reinstatement in service. But the anti-labour management refused to discuss the matter with the R.L.C. or to submit their comments. Considering the anti-labour attitude of the management, the union raised an industrial dispute before the A.L.C. (C) Dhanbad for conciliation and amicable settlement. The conciliation proceedings ended in a failure due to the adamant attitude of the management. In the conciliation proceedings the union requested the management to implement the settlement and also requested the R.L.C. (C) Dhanbad for prosecuting the management for non-implementation of the settlement. But the R.L.C. (C) refused to prosecute in view of the comments of the management. The management's plea before the Conciliation Officer was that in view of the Nationalisation Act, the settlement entered into with the employers is not binding on M/s. B.C.C. Limited. In view of the management's defence, the A.L.C. (C), instead of forcing the management to implement the settlement recommended the

dispute for adjudication by the Industrial Tribunal for determining the issue as to whether the management of M/s. B.C.C. Limited was legally bound to respect the settlement in view of the provisions of the Nationalisation Act. The Government of India, Ministry of Labour appreciated the genuineness of the demand and referred the dispute for adjudication on the terms as disclosed in the schedule. The concerned workmen are entitled to be reinstated in service with effect from 29-4-76, if not from 1-5-72, with full back wages and continuity of service, the reasons being that—

- (i) all of them were retrenched without paying any retrenchment compensation;
- (ii) as per conciliation settlement dated 9-3-1962 all of them will be deemed to be on leave from 21-2-62 till the date of re-opening of the mine on 29-4-76;
- (iii) the conciliation settlement is binding on B.C.C. Limited as per Section 18(3) of the Industrial Disputes Act;
- (iv) after re-opening of the mine/project many new persons were appointed or taken into employment on transfer from other collieries and so as per Section 25-H of the Industrial Disputes Act the concerned workmen are entitled to reinstatement;
- (v) the management of M/s. B.C.C. Limited of Area No. II already reinstated old employees of Hatudih Colliery although there was no conciliation settlement for their employment after re-opening of the mine; and
- (vii) legally all the concerned workmen shall be deemed to be on the roll of the company from 1-5-1972.

The management of Area No. II was/is very much prejudiced against the members of Bihar Colliery Kamgar Union and so the management had refused to settle the issue amicably. For the purpose of mining huge deposits of high quality coking coal, M/s. B.C.C. Limited has not only re-opened the Bhurungiya Colliery but also has started mining operations in the name and style of Bhurungiya Project. The action of the management in not allowing the concerned workmen to resume their duties at least from 29-4-76 is illegal, arbitrary and unjustified and against the principles of natural justice. The union asserted further that the action of the management in not allowing the concerned workmen to resume their duties in utter disregard of conciliation settlement on the ground that Sections 4 & 9 of the Coking Coal Mines (Nationalisation) Act has given complete immunity to the Government Company from any obligation regarding re-employment of any workmen who might have been dismissed, discharged or retrenched long ago is illegal and malafide. In the circumstances, the concerned workmen have prayed that the present reference case be answered in their favour.

5. In rejoinder to the written statement of the workmen represented by Bihar Colliery Kamgar Union the management has disputed that none of the

persons listed in the Annexure to the reference was ever employed in Bhurungiya Colliery prior to its closure on 21-2-1962. It has been denied that the termination of services of the workmen upon closure of Bhurungiya Colliery amounted to retrenchment. The management has denied and disputed the existence and validity of the settlement dated 9-3-1962 and asserted that the management of Bhurungiya Colliery was never taken over by the Central Government with effect from 17-10-1971 nor was the said colliery nationalised with effect from 1-5-1972. As a matter of fact, the management or persons operating Bhurungiya Colliery surrendered the mining lease to the Govt. of Bihar after closure of the colliery. In 1975 the B.C.C. Limited, intending to exploit Ranidih|Pipratand and Bhurungiya and other coal bearing areas, took lease from the Govt. of Bihar certain mining concessions including the erstwhile Bhurungiya Colliery and started a Project which it named the Bhurungiya Project for developing and exploiting the area. The Bhurungiya Project is entirely different from the erstwhile Bhurungiya Colliery and covers Ranidih|Pipratand collieries as well as the coal bearing seams situate in the area of erstwhile Bhurungiya Colliery. Surplus workmen of M/s. B.C.C. Ltd., were transferred from other collieries to work in Bhurungiya Project, except about 15, who being the owners of land taken over by B.C.C. Limited, were employed in the Project in accordance with the policy of M/s. B.C.C. Ltd. The management has admitted the proceedings before the R.L.C.(C) Dhanbad but denied the other allegations of the workmen. The present reference has been made by the Government without giving M/s. B.C.C. Limited an opportunity of being heard. It has been asserted that none of the persons listed in the reference is entitled to get reinstatement in service with back wages.

6. It appears that by an application dated 24-10-83 the management sought to make certain amendments in its written statement by stating that the establishment of M/s. B.C.C. Limited in respect of its Bhurungiya Project is not the same establishment as that of the person or persons previously operating Bhurungiya Colliery before its closure by M/s. Bhurungiya Coal Co. (P) Limited and that none of the existing workers of M/s. B.C.C. Limited has raised any dispute with regard to the persons listed in the Annexure and that no industrial dispute can arise out of settlement, even if it is genuine (which is disputed) and that the Tribunal cannot decide even as an incidental issue that Bhurungiya Project of M/s. B.C.C. Limited is successor-in-interest of Bhurungiya Colliery of M/s. Bhurungiya Coal Co. (P) Ltd.

The record bears out that this application for amendment was neither pressed nor was allowed by the Tribunal.

7. It appears that as many as forty four workmen out of workmen listed in the reference applied before the Tribunal for appearing separately through the General Secretary, Rashtrava Colliery Mazdoor Sangh, Dhanbad and the Tribunal was pleased to allow the prayer. These forty four workmen have filed separate written statement through their union, Rashtrava

Colliery Mazdoor Sangh. The case of these workmen, as appearing from the written statement, is as follows :

These forty four workmen were permanent employees of Bhurungiya Colliery and were working in different capacities. Bhurungiya Colliery was a working mine with a very large area of coal bearing lands. Due to violation of statutory provisions by the then management, the Department of Mines took action against the management under Section 22(3) of the Mines Act. The management, instead of rectifying the defect pointed out by the Department of Mines, closed it with effect from 21-2-1962 without payment of legal dues and/or compensation for such closure. The union of the workmen represented the case to the management and, having failed to receive any relief, raised an industrial dispute before the A.L.C. (C) Dhanbad. The A.L.C. (C) Dhanbad instituted a conciliation proceeding and ultimately a settlement was arrived at on 9-3-1962 whereby it was agreed that all the workmen should be treated as on leave without pay from 2-3-1962 but would retain their continuity in service till they were directed to report for duties upon starting of the mining operation of the property of Bhurungiya Colliery Co Ltd., by the owners of Bhurungiya Colliery. The Central Government took over the management of all the properties of Coking Coal Mines and coal bearing land with effect from 17-10-71 by an Ordinance and Nationalised them with effect from 1-5-1972 under the Nationalisation of Coking Coal Mines, 1972. Consequent upon nationalisation of Coking Coal Mines Act, 1972 all such properties, their ownership, management and control have been vested in M/s. B.C.C. Ltd. Mining operation in Bhurungiya Colliery was started by M/s. B.C.C. Limited with effect from 29-4-1976. All the workmen of former management of Bhurungiya Colliery approached the administration as soon as they came to know about the starting of mining operation of Bhurungiya Colliery. The workmen also represented their case before the higher authorities of M/s. B.C.C. Limited and the demand of the workmen were scrutinised by the Central Government. Formal conciliation proceedings were held resulting in the present reference before this Tribunal for adjudication. Though these forty four workmen have been allowed separate representation, they have common cause with all the workmen listed in the present reference. The reasons for nationalisation of Coal Mining Industry inter-alia were to protect the interest of the workers who were being exploited by private owners and hence it was the bounded duty of M/s. B.C.C. Limited to absorb all the workmen rendered idle by the erstwhile Bhurungiya Colliery since the property has vested in M/s. B.C.C. Ltd. It has been alleged that the concerned workmen who were permanent employees of erstwhile owners have been kept out of employment but a vast number of contractor's labourers and fresh hands have been taken into permanent employment in different collieries of M/s. B.C.C. Limited and thus a serious discrimination have been made against the concerned workmen.

In the circumstances, the union has submitted that the concerned workmen should be reinstated in ser-

vice from the date of starting of the Project with continuity of service and consequential relief.

8. In rejoinder to the written statement submitted by Rashtriya Colliery Mazdoor Sangh, the management has denied that the forty four workmen represented by the said union were permanent employee of Bhurungiya Colliery. It has been denied that the legal dues of the workmen employed by Bhurungiya Colliery or their compensation in view of closure were not paid. There was no legal and lawful settlement dated 9-3-62 and the requirement of law as contemplated U/S 2(b) read with Section 12(3) of the Industrial Disputes Act were not complied with. Under the provisions of Coking Coal Mines (Emergency & Provisions) Act, 1971 the management of Coking Coal Mines and Coke Oven Plants with regard to the coking coal mines as mentioned in the first Schedule of the said Act was taken over, but coal bearing lands which were not covered under the said schedule were never taken over or acquired. Under the provisions of Coking Coal Mines (Nationalisation) Act, 1972 the right, title and interest of the owners of coking coal mines as specified in the first Schedule only were acquired and nationalised with effect from 1-5-72, but coal bearing lands not included in the schedule were not nationalised. Bhurungiya Colliery was neither taken over nor nationalised and the ex-owner of Bhurungiya Colliery had removed all machines, structure head gears etc. and the pits were waterlogged. M/s. B.C.C. Ltd took lease of the coal bearing areas from the State of Bihar by lease dated 29-7-75 and merged Ranidih/Pipratand Colliery, Pathergoria Colliery and East Muchradih Colliery which were nationalised coal mines with Bhurungiya Colliery which were closed in 1962 and started a Project known as Bhurungiya Project which is not the same establishment as that of Bhurungiya Colliery as it had ceased to exist on or after its closure on 21-2-62. Bhurungiya No. 6 Pit is still under Project stage and has not started in full. Ranidih/Pipratand started on 15-5-88. It has been denied that the workmen of Bhurungiya Colliery approached the present management of Bhurungiya Project for employment. It has also been denied that the persons concerned made any representations to the authorities of M/s. B.C.C. Limited. The reasons for nationalisation of coking coal mines/coal mines have been mentioned in the preamble of the Nationalisation Act. The management has denied that M/s. B.C.C. Ltd. has employed a vast number of workmen in Bhurungiya Project. Bhurungiya Project is neither the same establishment as Bhurungiya Colliery of M/s. Bhurungiya Coal Co. Limited and the impugned settlement dated 9-3-62 is not binding on M/s. B.C.C. Limited nor is the Bhurungiya Project successor-in-interest of Bhurungiya Colliery. Furthermore, the question whether Bhurungiya Project is successor-in-interest of Bhurungiya Colliery cannot be decided in the instant reference as incidental issue.

9. In rejoinder to the written statement of the management, Rashtriya Colliery Mazdoor Sangh representing the forty four workmen of the present reference has contended that the written statement of the management does not reflect the proper interpretation and statutory provision of closure of an undertaking, retrenchment of employed persons and

claim for reinstatement by the retrenchment persons at the appropriate time with the starting of closed undertaking. The coal bearing lands of former Bhurungiya Colliery has been acquired and is being worked by M/s. B.C.C. Limited under cover of Bhurungiya Project and hence the former Bhurungiya Colliery has turned into present Bhurungiya Project and therefore the present management cannot by pass the statutory liabilities and refuse employment to workmen whose services were terminated by way of retrenchment by the erstwhile owners. 2

10. In the additional written statement submitted the management has asserted that the Coking Coal Mines (Nationalisation) Act, 1972 and the Coal Mines (Nationalisation) Act, 1973 have been amended by the Coal Mines Nationalisation Laws (Amendment) Act, 1986. The effect of the Amending Act of 1986 with retrospective effect is that the employees of former Bhurungiya Colliery, even if the said colliery was nationalised and even if there was no closure of that colliery, cannot claim to have become the employees of M/s. B.C.C. Ltd.

11. The case of the concerned workmen in Reference Case No. 72/82 & 67/83, as appearing from the written statement submitted on their behalf by the sponsoring union, Bihar Colliery Kamgar Union, is identical and same with that as disclosed in Reference Case No. 56/82. The defence of the management in these two cases in refutation of the claim of the concerned workman is also identical and same with that as disclosed in Reference Case No. 56/82.

12. The unions of the concerned workmen have examined 5 witnesses, namely WW-1 Arjun Rewani, WW-2 A. B. Bhosh, WW-3 Amulya Rattan Dubey, WW-4 Ramkhelwan Prajapat, WW-5 Khagen Chandra Pathak and laid in evidence a mass of documents which have been marked Exts. W-1 to W-101. On the other hand, the management have examined 4 witnesses, namely MW-1 Md. Isamul Hai, MW-2 Sudhakar Pandey, MW-3 G. B. Singh and MW-4 B.N. Jha and laid a sheaf of documents which have been marked Exts. M-1 to M-16.

13. The pleadings of the parties arrayed reflect controversy over a series of issues including the issue as to whether the management of Bhurungiya Colliery was taken over by the Central Government and whether the said colliery was subsequently nationalised or not.

The case of Bihar Colliery Kamgar Union is that the management of Bhurungiya Colliery along with other Coking Coal Mines was taken over by the Central Government with effect from 17-10-71 and subsequently the said colliery was nationalised with effect from 1-5-72 and handed over to M/s. B.C.C. Ltd. The case of the management is that the management of Bhurungiya Colliery did never vest in the Central Government by reason of the provisions of Coking Coal Mines (Emergency Provisions) Act, 1971 nor did this colliery vest in the Central Government or in any Government Company by reason of the provisions of Coking Coal Mines (Nationalisation) Act, 1972. The case of Rashtriya Colliery Mazdoor Sangh

is that the Central Government took over the management of all the properties of Coking Coal Mines and coal bearing lands with effect from 17-10-1971 by an Ordinance and nationalised the property of Coking Coal Mines and coal bearing land with effect from 1-5-72 under the provisions of Nationalisation of Coking Coal Mines Act, 1972.

14. The pleadings of the parties unmistakable establish the fact that Bhurungiya Colliery was a Coking Coal Mine. The Coking Coal Mines (Emergency) Provisions Act, 1971 came into force on 16-10-1971 and Section 3 of the said Act provides as follows : -

"3. (1) On and from the appointed day, the management of all coking coal mines shall vest in the Central Government.

(2) The coking coal mines specified in the First Schedule shall be deemed, for the purposes of this Act, to be the coking coal mines the management of which shall vest, under sub-section (1), in the Central Government :

Provided that if, after the appointed day, any other coal mine is found, after an investigation made by the Coal Board, to contain coking coal, that Board shall make a declaration to that effect and on and from the date of such declaration, such mine shall be deemed, for the purposes of this Act --

(i) to vest in the Central Government; and

(ii) to be included in the First Schedule, and thereupon the provisions of this Act shall become applicable thereto subject to the modification that for the words "appointed day", wherever they occur, the words "the date of the declaration made by the Coal Board under sub-section (2) of section 3" shall be substituted.

The First Schedule of Coking Coal Mines does not include the name of Bhurungiya Colliery. There is no evidence on record to indicate that the Coal Board, after an investigation, made a declaration to the effect that the management of Bhurungiya Colliery should vest in the Central Government. Under the provisions of the Act as aforesaid the management of all Coking Coal Mines as specified in the First Schedule vested in the Central Government with effect from the appointed day i.e. from 17-10-71. But the name of Bhurungiya Colliery not being specified in the First Schedule nor any declaration with regard to the vesting of management of Bhurungiya Colliery in the Central Government having been made by the Coal Board, the inescapable conclusion is reached that the management of Bhurungiya Colliery, admittedly a Coking Coal Mine, did not vest in the Central Government with effect from the appointed date i.e. from 17-10-71 or from any subsequent date.

Close on the heels of the Act aforesaid the Coking Coal Mines (Nationalisation) Act, 1972 came into force with effect from 1-5-72. Section 4 of this Act provides as follows : -

"(1) On the appointed day, the right, title and interest of the owners in relation to the

coking coal mines specified in the First Schedule shall stand transferred to, and shall vest absolutely, in the Central Government, free from all incumbrances.

(2) For the removal of doubts, it is hereby declared that if, after the appointed day, any other coal mine is found, after an investigation made by the Coal Board, to contain coking coal, the provisions of the Coking Coal Mines (Emergency Provisions) Act, 1971, shall, until that mine is nationalised by an appropriate legislation, apply to such mine."

But even here the coking coal mines as specified in the First Schedule do not include Bhurungiya Colliery. This being the position, I came to the conclusion that the management of Bhurungiya Colliery did never vest in the Central Government nor the right, title and interest in relation to Bhurungiya Colliery were transferred to the Central Government under the provisions of the Coking Coal Mines (Nationalisation) Act, 1972. Both these Acts as aforesaid do not envisage that all coking coal mines and coal bearing lands vested in the Central Government with effect from 17-10-71 nor do they envisage that all the Coking Coal Mines were nationalised with effect from 1st May 1972. Hence the claim of the unions that the management of Bhurungiya Colliery was taken over by the Central Government under the provisions of the Coking Coal Mines (Emergency Provisions) Act, 1971 and the said colliery was nationalised under the provisions of Coking Coal Mines (Nationalisation) Act, 1972 is not sustainable. On the other hand, the contention of the management that the management of Bhurungiya Colliery was never taken over by the Central Government under the provisions of Coking Coal Mines (Emergency Provisions) Act, 1971 nor was that colliery nationalised under the provisions of Coking Coal Mines (Nationalisation) Act, 1972 gets its force from the Acts themselves and hence, it must perforce be upheld.

15. According to the pleading of the management M/s. Bhurungiya Coal Company was the erstwhile owner of Bhurungiya Colliery. This statement of fact has not been assailed by either of the two contending unions. On the contrary, it appears from the documents submitted by Bihar Colliery Kangan Union Exts. W-1 to W-9 certifies issued by M/s. Bhurungiya Coal Company—establish the fact that M/s. Bhurungiya Coal Company having its registered office at 18, Netaji Subhash Road, Calcutta was the erstwhile owner of Bhurungiya Colliery. This being so, the position is clinched that M/s. Bhurungiya Coal Company was the erstwhile owner of Bhurungiya Colliery, a coking coal mine.

16. It is the irrefragable position that a prohibitive order under Section 22(3) of the Mines Act was clamped down upon the erstwhile owners of Bhurungiya Colliery prohibiting certain acts sometime in 1962. This order was reportedly issued from the Office of the Department of Mines, but nevertheless this order was not a direct order for closure of the colliery. But the fact remains that the erstwhile owners

closed down the colliery and downed its shutters totally and in the process left entire work-force in the lurch by termination of services.

17. Sri B. N. Prasad, Advocate, assisted by Sri G. Prasad, also an Advocate, for the management has contended that the present industrial disputes are incompetent since it relates to a closure of a mine. He has further submitted that no industrial dispute can be raised in respect of a closed mine.

S/Shri D. Mukherjee and S. Bose authorised representatives of the unions have submitted that the present disputes are not in respect of a closed industry. They have further asserted that M/s. B.C.C. Ltd., has since reopened the mine known as Bhurungiya Colliery in the garb of Bhurungiya Project and hence these industrial disputes are competent.

18. Section 7-A of the Industrial Disputes Act provides that the appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunal for the adjudication of Industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule. The Third Schedule of the Act contains matter within the jurisdiction of Industrial Tribunals item No. 10 of which includes retrenchment of workmen and closure of establishment. This being so, a dispute may arise with respect to the nature of closure. But once it is found that the closure, in fact, has taken place, the jurisdiction of the Tribunal comes to an end and it cannot go into the question of motive behind the closure. In the present cases the unions have not raised any question as to the legality or otherwise of the closure, but have simply demanded for reinstatement of the concerned workmen in service on the basis of terms of settlement arrived at between the erstwhile owners and employees on 9-3-62 in presence of the Conciliation Officer. Hence the issues involved in the present dispute is not as to whether the closure was a real or genuine closure or it was a mere pretence or sham of a closure or in fact it was not a closure at all. The main crux of the issue involved is as to whether the demand of the unions for reinstatement in service of the concerned workmen by the management of M/s. B.C.C. Ltd., on the basis of settlement dated 9-3-62 is justified or not. Such being the position, I am constrained to hold that there is no substance in the contention of Sri Prasad that the present industrial disputes are incompetent.

19. The next question that comes to the fore of my consideration is as to whether a settlement was effected on 9-3-62 between the erstwhile owner of Bhurungiya Colliery and the employees of the said colliery in presence of at the intervention of the Conciliation Officer.

The case of the unions are that the workmen, being aggrieved by illegal and arbitrary retrenchment upon closure of the colliery and also by non-payment of retrenchment compensation and other dues, raised an industrial dispute through the General Secretary of Hindustan Khan Mazdoor Sangh before the A.L.C. (C) Dhanbad and that in the course of conciliation proceeding a settlement was arrived at on 9-3-62

between the erstwhile owners and the workmen of the colliery.

The management has totally denied the settlement and contended further that it has no legal force.

20. The unions have filed a certified copy of the settlement dated 9-3-62 arrived at between the General Secretary, Hindusthan Khan Mazdoor Sangh and Congress Mazdoor Sangh representing the workmen of Bhurungiya Colliery and the management of Bhurungiya Colliery in presence of the Conciliation Officer(C) Dhanbad Ext. W-11.

Sri B. N. Prasad, Advocate has commented that this certified copy of settlement does not bear the name of the General Secretary of Hindusthan Khan Mazdoor Sangh and the names of the representatives of the management. Admittedly the position is so, but nevertheless the certified copy bears out the name of Sri V. P. Gupta, Conciliation Officer(C) Dhanbad. That apart, it appears that a certified copy of the settlement dated 9-3-62 was produced in the Court of the authority appointed under the Payment of Wages Act, Baghmara Sub-Division Ext. W-11 while submitting a petition (Ext. W-11) under Section 15(2) and 16(g) of the Payment of Wages Act. There is a clear recital in this application that a settlement was arrived at on 9-3-62 between the management of Bhurungiya Colliery and Congress Mazdoor Sangh, Bihar and another union. It appears that the S.D.O., Baghmara Sub-division was the appointed authority under the Payment of Wages Act and that he acted upon the certified copy of the settlement dated 9-3-62 (Ext. W-11).

None of the witnesses for the management has come forward to deny that there was no such settlement. On the other hand, WW-1 Arjun Rewani one of the concerned workmen has asserted that on 22-2-62 the colliery was closed by the management and that at the relevant time the union operating there was Hindusthan Khan Mazdoor Sangh headed by Sri Raghav Acharya. He has further stated that it was settled in the course of conciliation proceeding that the workmen working in the colliery would be treated to be on leave during the period the colliery remained closed and that they would be taken in employment when it was re-opened. In cross-examination he has stated that Raghav Acharya was the General Secretary of the union which raised the dispute. WW-3 Amulya Ratan Dubey has claimed to have worked as Attendance Clerk of Bhurungiya Colliery from 1953 to 1962. He has emphatically stated that he was given to understand by Acharya Babu that an amicable settlement was arrived at between the management and the workmen on the dispute and that in terms of the settlement every worker was to get employment and his wages on reopening of the colliery. WW-5 Khagen Chandra Pathak has stated that he was one of the Office Bearers of Employees Union styled Congress Mazdoor Sangh operating in Bhurungiya Colliery when the colliery was closed and that Hindusthan Khan Mazdoor Sangh, another trade union was operating in Bhurungiya Colliery in 1962. He has further stated that he raised a dispute for non-payment

of dues of workmen by the private owner and that the other Union also raised the dispute. He is bit inaccurate when he has stated that in 1964 a settlement was arrived at, but he has stated correctly that the settlement was arrived at with respect to service and for payment of dues. The certified copy of the memorandum of settlement indicates that Hindusthan Khan Mazdoor Sangh was represented by its General Secretary and the Congress Mazdoor Sangh by Sri Bhrgunath Pandey and one of the terms of the settlement was as follows :—

“The workman shall be treated as on leave without pay from 2-3-62 till the colliery re-opens without affecting (affecting) their continuity of service.”

The settlement has also set forth the time schedule of payment of wages and salaries of staff, bonus etc. Thus from the evidence gathered on record, I have no hesitation to conclude that an amicable settlement was effected between the employer on the one hand and the employees on the other in presence of at the intervention of the Conciliation Officer on 9-3-62.

21. Sri B. N. Prasad, Advocate has contended that this settlement has no legal force at all since the provisions of Section 12(3) of the Industrial Disputes Act and Rule 58(3) of the Industrial (Central) Rules, 1957 have not been complied with.

Sr. D. Mukherjee and S. Bose have contended that the official course of business should be presumed to have been correctly done unless disproved and so the onus is upon the management to prove that the provisions of Section 12(3) of the Industrial Disputes Act and Rule 58(3) of the Industrial Disputes (Central) Rules have not been complied with.

Indeed, the legal position is that the official course of business should be presumed to have correctly done and the onus is on the party to prove that it was not done so. Any way, the provisions of Section 12(3) of the Industrial Disputes Act envisages that if a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceeding the Conciliation Officer shall send a report thereof to the appropriate Government or an officer authorised in this behalf by the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute. Rule 58(3) of the Industrial Disputes (Central) rules, 1957 envisages that where a settlement is arrived at in the course of conciliation proceeding, the Conciliation Officer shall send a report there to the Central Government together with a copy of the memorandum of settlement signed by the parties to the dispute. Now the question is whether the Conciliation Officer did send a report of the settlement signed by the parties to the dispute to the Central Government. The record of Reference Case No. 56/82 bears out that at the instance of the management the file relating to the settlement dated 9-3-62 and the register of letters showing that the aforesaid settlement was sent to the officer

concerned were called for from the A.L.C. (C) Dhanbad. On 30-5-84 the A.L.C. (C) reported that the files/documents in question were not available in the office as the same were very old. Thereafter Sri G. Prasad, Advocate for the management filed another petition calling for documents from the Secretary to the Government of India, Ministry of Labour and from the Chief Labour Commissioner, New Delhi and from R.L.C. (C) Dhanbad. The then Presiding Officer in-charge was pleased to pass the following order on the petition :

"Put up and move before the Presiding Officer who is likely to join very soon."

Thereafter the matter was not pursued by Sri Prasad and it was left there. In other words, the management has failed to discharge the onus of disproving that the settlement in question dated 9-3-62 was legally effected. Hence it must be concluded that the settlement dated 9-3-62 was legally effected.

But it is really another question as to whether the settlement was legally competent.

Sri. B. N. Prasad, Advocate for the management has contended that this settlement should be considered as honest since no industrial dispute can be raised on the issue of closure of an industry.

Sri D. Mukherjee, authorised representative of Bihar Colliery Kamgar Union has contended that the issue before the Conciliation Officer was not whether the closure was justified or not, but whether the aggrieved workmen were entitled to retrenchment compensation or not.

22. Retrenchment has been defined in Section 2(oo) of the Industrial Disputes Act. Termination by the employer of the service of a workmen for any reason whatsoever is the key words of the Section. In Pipraich Sugar Mills Ltd. Vs. Pipraich Sugar Mills Mazdoor Union reported in (1957) 1 L.L.J. 235 it has been held by the Hon'ble Supreme Court that "retrenchment connotes in its ordinary acceptation that the business itself is being continued but that a portion of the staff or the labour force is discharge at surplusage and the termination of the services of all workmen as a result of closure of the business cannot, therefore, be properly described as retrenchment". Retrenchment means, in ordinary parlance, discharge of surplus but it cannot include discharge on closure of business. The decision rendered in Pipraich Sugar Mills Ltd. Vs. Pipraich Sugar Mills Mazdoor Union was reaffirmed by the Hon'ble Supreme Court in Barsi Light Railway Co. Ltd. Vs. K. N. Joglekar (1957) 1 L.L.J. 243 where it was held that "in no case there is any retrenchment, unless there is discharge of surplus labour or staff in a continuing or running industry".

Admittedly the services of the concerned workmen were terminated on closure of the colliery and so in view of the decision of the Hon'ble Supreme Court it cannot be said that they were retrenched

from service. Even so, they are entitled to compensation as per Section 25-F which gets its sanction from Section 25-FFF of the Industrial Disputes Act.

23. It appears that the unions of the concerned workmen belonged to at the relevant time raised an industrial dispute over wages, salary, compensation and bonus. These issues roundly comes within the Third Schedule of the Industrial Disputes Act under the heading 'matters within the jurisdiction of the Industrial Tribunals'. Hence, I have no hesitation to hold that the industrial dispute raised by the concerned workmen upon closure of Bhurungiya Colliery before the Conciliation Officer was quite competent and that such raising of dispute have got the sanction of law.

24. It is the emphatic case of the management that the persons operating Bhurungiya Colliery surrendered the mining lease to the Govt. of Bihar after closure of Bhurungiya Colliery and that the ex-owner of Bhurungiya Colliery removed all machines, structures, head gears etc. It is the further case of the management that M/s. B.C.C. Limited took lease of the coal bearing areas from the State of Bihar by Lease Deed dated 29-7-75.

The management has laid no positive evidence to prove that the ex-owner of Bhurungiya Colliery surrendered the mining lease to the State of Bihar. Under Section 111 of the Transfer of Property Act a lease of immovable property determines, amongst other methods, by (i) express surrender, that is to say, in case the lessee yields up his interest under the lease to the lessor by mutual agreement between them and (ii) implied surrender. It is not necessary that a surrender is required by law to be in writing and registered. Even so, the evidence on record does not indicate that there exists any vestige of evidence to show that the ex-owners of Bhurungiya Colliery surrendered their mining lease to the State of Bihar. There is also no positive evidence to show that the ex-owners removed all the machines, structures head gears etc. MW-2 Sudhakar Pandey who was the Project Officer of Bhurungiya Project of M/s. B.C.C. Ltd., from 25-11-74 to 21-7-83 has stated only that he did not find any trace of buildings, machinery, stock of coal etc. of the so called erstwhile owner. It must not be forgotten that from the time of the closure of the colliery till the taking over of possession of the demised land by M/s. B.C.C. Limited atleast 11 to 12 years have elapsed and during this period what happened to the buildings, machineries etc. belonging to the erstwhile owner nobody knows. However, the fact is that M/s. B.C.C. Limited took mining lease of 730 bighas of land of Mouza Bhurungiya for a term of 30 years under a registered deed of lease dated 24-7-75 Ext. M-1. There is no dispute that on the basis of this deed of lease M/s. B.C.C. Ltd., took possession of the lease-hold land and embarked on a Project known as Bhurungiya Project. In view of these facts and circumstances, it appears that although there is no evidence on record to indicate that the ex-owners of Bhurungiya Colliery surrendered their mining lease to the State of Bihar and removed all machineries, structures etc.

from the lease-hold land, they allowed the State of Bihar to grant mining lease to M/s. B.C.C. Limited and that M/s. B.C.C. Limited took possession of the lease-hold land for mining operation.

25. A map of demised land is appended to the deed of lease which clearly indicates the demised land and the neighbouring collieries Ext. M-11.

26. According to the case of the management, Bhurungiya Project is entirely different from the erstwhile Bhurungiya Colliery and the project covers Ranidih, Pipratand Collieries as well as coal bearing seams comprised in the area of erstwhile Bhurungiya Colliery. It may be stated here that Ranidih and Pipratand Collieries are coking coal mines and were nationalised under the provisions of Coking Coal Mines (Nationalisation) Act, 1972. The Feasibility Report for Bhurungiya Project Ext. M-2 indicates that the boundary of the Bhurungiya Project extends upto Ranidih, Pipratand Collieries upto 35 metres fault, Bhurungiya Colliery upto 180 metres stratum contour, parts of Mucheradin and Pathergoria Collieries lying west of 35 metres fault, New Pipratand Colliery and parts of undemarcated area. The Feasibility Report of the Project describes the location of Bhurungiya Colliery by pits and the other collieries by other suitable descriptions. MW-2 Sudhakar Pandey, the Project Officer has stated that Bhurungiya Project was started with some land held by nationalised mine and with land newly and freshly leased out by the Government and taken on lease from the Government. He has further stated that as per the project report proved by him (Ext. M-2) both Ranidih, Pipratand Collieries and Bhurungiya Project were re-started and that according to project report Bhurungiya mine which was closed in 1962 was de-watered. In a letter dated 7-7-81 the Director-General of Mines Safety informed Sri A. K. Roy, the then Member of Parliament that the actual pumping in Bhurungiya Colliery started on 29-4-76 after its long closure from 1962 (Ext. W-10). The Director-General of Mines Safety is a no mean authority and according to him the actual pumping operation in Bhurungiya Colliery was started on 29-4-76. All these evidences unmistakably establish the fact that M/s. B.C.C. Limited embarked on a mining operational project known as Bhurungiya Project with the land earlier occupied by Bhurungiya Colliery and some neighbouring collieries and that the operation of the project started identifying different pits and inclines. This being the position, it cannot be said that the erstwhile Bhurungiya Colliery has entirely lost its identity in the hands of M/s. B.C.C. Limited which took the mining lease of the lands occupied by erstwhile Bhurungiya Colliery. On the contrary, the identity of erstwhile Bhurungiya Colliery can very well be established although it is a part of Bhurungiya Project.

27. Sri D. Mukherjee, authorised representative of Bihar Colliery Kamgar Union has submitted that since M/s. B.C.C. Limited has re-opened the Bhurungiya Colliery in the name of Bhurungiya Project, the company has got obligation to re-employ the employees of Bhurungiya Colliery who lost their services by termination upon closure of the colliery. It

appears that Sri Mukherjee has made this submission evidently in view of Section 17 of the Coking Coal Mines (Nationalisation) Act, 1972 whereby employment of certain employees of Coking Coal Mines or Coke Oven Plants was given continuance an and from the appointed day. But this argument of Sri Mukherjee is faulted on two grounds. Firstly, Bhurungiya Colliery was not nationalised under the provisions of Coking Coal Mines (Nationalisation) Act, 1972. So the concerned workmen cannot claim any right given under Section 17 of the said Act. Secondly, the colliery was admittedly closed on the appointed day and so the concerned workmen cannot be presumed to have been on the rolls of the company on the appointed day.

Sri Mukherjee has submitted that M/s. B.C.C. Limited is the successor-in-interest of the ex-owners of Bhurungiya Colliery and so M/s. B.C.C. Limited is bound to abide by the settlement dated 9-3-1962 under the provisions of Section 18(3)(c) of the Industrial Disputes Act.

It has been proved by evidence that the State of Bihar granted lease of land occupied by Bhurungiya Colliery to M/s. B.C.C. Limited for mining operation. So M/s. B.C.C. Limited cannot be considered to be the successor-in-interest of the ex-owner of Bhurungiya Colliery. On the other hand, I have pointed out by discussing evidence that the ex-owners of Bhurungiya Colliery allowed the State of Bihar to grant mining lease of the land occupied by Bhurungiya Colliery. In the context of these facts and circumstances, I come to the conclusion that M/s. B.C.C. Limited is not the successor-in-interest of the ex-owner of Bhurungiya Colliery and as such it has got no legal obligation to abide by the agreement arrived at between the ex-management of Bhurungiya Colliery and the unions of the concerned workmen in presence of at the intervention of the Conciliation Officer.

28. It appears from the letter of the Director-General of Mines Safety to Sri A. K. Roy, the then Member of Parliament that the actual pumping operation in Bhurungiya Colliery started on 29-4-1976 after its long closure from 1962 (Ext. W-10). MW-2 Sudhakar Pandey the Project Officer has stated that he started the Bhurungiya Project in two phases—the first phase started in December, 1974 and the second phase in December, 1975 after approval of the Project. Hence, it can be concluded that the first phase of Bhurungiya Project was started in December, 1975 and the actual de-watering of Bhurungiya Colliery stated on 29-4-1976.

It is the case of the unions that when Bhurungiya Colliery was re-opened, they pleaded with the management to re-employ the concerned workmen and that was of no avail. The matter was taken up before the R.L.C.(C) and thereafter industrial dispute was raised before the A.L.C.(C) Dhanbad for conciliation and amicable settlement. Consequent upon failure of the conciliation proceedings the present industrial disputes were raised.

29. While the disputes were pending before this Tribunal, Sri Barhan Das, President of Bihar Colliery

Kamgar Union wrote a letter to the General Manager (P) Koyala Bhavan, Dhanbad dated 22-4-1986 (Ext. M-31) demanding re-employment of Sri Tilak Mahato and 365 others who were retrenched from Bhurungiya Colliery before nationalisation. Sri B. N. Jha the then Personnel Officer (W.J.D.) raised a note dated 13-5-1986 (Ext. M-11) which ultimately reached Director of Personnel who recommended employment of the persons with certain conditions. Sri B. N. Jha, by letter dated 3-9-1986 advised the General Manager, Mohuda Area to take necessary action for employment of the workmen on the approval of Director Personnel (Ext. M-3). It appears from evidence that the management displayed in the Notice Board the names of the persons to be employed after verification. MW-3 Sri B. D. Singh, Personnel Manager of Mohuda Area has insisted in his evidence that the list of the workmen, to be provided employment, was submitted by Sri Barhan Das and that the letter of the headquarter accompanied a list of the persons to be employed and that this list was submitted by Sri Barhan Das. But the letter of Barhan Das does not indicate that any list was submitted by him. It also appears that at the end of the list as produced by the management, his signature does not also appear. However, the fact is that a great furore was raised when the names of the workmen were displayed in the Notice Board and as a consequence the management had to beat a hasty retreat.

30. Sri D. Mukherjee and Sri S. Bose have contended that the management, by agreeing to the representation of Sri Barhan Das for employment of workmen of erstwhile Bhurungiya Colliery, had made a definite commitment to re-employ those persons. They have further submitted that the management cannot now renege from the commitments. Upon perusal of evidence I find that the management nowhere has made any commitment for re-employment of workmen of ex-Bhurungiya Colliery. The note sheet that was raised is an internal affair of the management and it does not spell out that the management made any commitment to the unions for re-employment of the workmen of ex-Bhurungiya Colliery.

31. It appears that the situation took an opposite direction consequent on a representation dated 22-9-86 of Sri Khagen Chandra Pathak of Rashtriya Colliery Mazdoor Sangh to the Deputy Commissioner, Dhanbad (Ext. M-8) with copy thereof to Director (P) of M/s. B.C.C. Limited and a letter to the General Manager dated 24-9-86 (Ext. M-8) by him. Sri Pathak has complained that the management was contriving to give employment to wrong persons. The management thereafter made a fresh assessment of the cases and was satisfied that the earlier decision for re-employment of the workmen of Bhurungiya Colliery should not be implemented (Ext. M-12 series) and decided to contest the cases (Ext. M-15).

Thus from the evidence on record I am not satisfied that the management has made any commitment to the unions of the concerned workmen for their re-employment.

32. It has been contended by Sri B. N. Prasad, Advocate for the management that from the Annexures to the terms of references the identity of the concerned workmen cannot be established and so it is very difficult for the management to properly identify the right workmen, even if, they are considered for re-employment.

Indeed, the Annexures to the terms of references contain only the names of the workmen without specifying their designation, parentage, age etc., but the two unions have since provided lists giving descriptions of some of the workmen and I think that the matter of identification can be resolved by a comparison of the Annexures with these lists together with affidavits affirmed by these persons before competent authority and their identification by the officials of the respective union. I hold that by resorting to this method the lingering problem of identification can be got over.

33. But then from my discussion above, it is abundantly clear that the management has got no legal obligation to give employment to the workmen of Bhurungiya Colliery. Even so, M/s. B. C. C. Limited is a Government Company operating in a selective and sensitive sector of industrial complex. The Company has got moral obligation to realise the objective of social welfare of the State and to be responsive to social justice. From this point of view, it is desirable that M/s. B. C. C. Limited should explore ways and means to employ/re-employ those concerned workmen whose identity are fully established and who are found otherwise fit and suitable in its service.

34. Accordingly the following award is rendered—

The demand of the workmen of Bhurungiya Project in Mohuda Area No. II of M/s. B. C. C. Limited for their reinstatement by the management, keeping in view of the terms of settlement dated 9-3-62 is not legally justified. Even so, the management of M/s. B. C. C. Ltd., should explore the possibilities of giving employment to those concerned workmen whose identities are established and who are otherwise found fit and suitable, if and when, vacancy arises.

This award governs Reference No. 72/82 and Reference No. 67/83.

In the circumstances of the case, I award no costs.

Sd/-

S. K. MITRA, Presiding Officer

[No. (i) L-20012(394) 81-D. III(A)IR (Coal-I),
 (ii) L-20012(99) 80-D. III(A)IR (Coal-I)
 (iii) L-20012(137) 88-D. III(A)IR (Coal-I)]

का. आ. 2464.—मोर्योगिक विवाद प्रधिकार, 1947 (1947 का 14) की धरत 17 के अन्तर्गत में, कुमारधुबी मरुसार, मध्येर ईस्टने की नवीनीतद्वारा निभिटड के कामागार लक्ष्य का प्राचीन कुमार धर्मी कोलियरी के प्रबंधाताव में गवंध तियोजनों और उके नियमों के बीच, अनुवंश में निविद्य श्रीयोगिक विवाद में केन्द्रीय गवार श्रीयोगिक प्रधिकार (सं. 2), गवार के पंजाद को प्राप्ति करनी है, जो केन्द्रीय गवार का 7-9-1989 को प्राप्त हुआ था।

S.O. 2464.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Kumaradhuli Colliery, Kapasara Area of Eastern Coalfield Ltd. and their workmen, which was received by the Central Government on the 7-9-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT :

Shri J. N. Sinha, Presding Officer.

Reference No 58 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

PARTIES :

Employers in relation to the management of Kumaradhuli Colliery under Kapasara Area of Eastern Coalfield Limited and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri J. P. Singh.
Advocate.

On behalf of the employers.—Shri R. S. Murthy,
Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 31st August, 1989

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24612(101)86-D.IV(B), dated, the 8th January, 1987.

SCHEDULE

“Whether the action of the Management of Kumaradhuli Colliery under Kapasara Area of M/s. E.C. Ltd., P.O. Soraspahari, Dist. Dhanbad in superannuating Shri Narayan Labour Pump Khalasi, w.e.f. 3-4-1986, is justified? If not, to what relief the workman is entitled?”

The case of the workmen is that the concerned workman Shri Narayan Lohar was working as a Pump Khalasi in Kumaradhuli colliery of M/s. E.C.L. He was first appointed in Kumaradhuli colliery in 1957 when the colliery was under the private ownership of M/s. K. Worah and Co. The date of birth of the concerned workman was recorded in the statutory Form B Register as 7-1-1936. The concerned workman had also became a member of the P.F. organisation in which also his date of birth was mentioned as 7-1-1936. The P.F. records maintained in the colliery also showed his date of birth to be 7-1-1936. In 1972 the said colliery was nationalised and taken over by the C.M.A. constituted by the Govt. of India and subsequently M/s. E.C.L. was constituted in 1972-73 and thereafter the management of the colliery continued with E.C.L. The concerned workman has read upto the Middle School standard and obtained a School Leaving Certificate which supports the date of birth of the concerned workman in the year 1936. After the take over the management of M/s. E.C.L. prepared a new Form B Register in which the age of the concerned workman was shown to be 39 years in 1973. Subsequently an identity card was issued to the colliery workmen by the management of Kumaradhuli colliery in which his date of birth was shown to be 1-7-1936 being consistent with the record of age maintained by the private management in the statutory Form B Register. Subsequently a mistake was committed by the office staff of the colliery by making an interpolation in Form B Register by converting figures “39” to make it as “49” years and thus raising the age of the concerned workman by 10 years. The concerned workman lost the original identity card issued by the management of Kumaradhuli colliery and hence he applied for issue of a fresh identity card. Thereafter a fresh identity card was issued to the concerned workman but no date of birth was mentioned in it and the column regarding the date of birth was left blank in it. The concerned workman requested his age to be recorded in the identity card issued to him by approaching the then Personnel Officer of the Colliery. The Personnel Officer referred the concerned workman to Shri B. Roy, CMF Clerk of the colliery. Shri B. Roy gave a slip to the concerned workman showing that in the C.M.P.F. register his date of birth was 7-1-1936.

The concerned workmen received notice of retirement on the basis of his interpolated age in Form B Register for which the concerned workman made a protest. The management wanted to get the age of the concerned workman ascertained by the age committee but the concerned workman protested on the ground that when his date of birth was consistently 7-1-1936 in Form B Register as well as in the P.F. registers there was no point for assessment of his age by any age committee. That inspite of the protest made by the concerned workman, he was forcibly retired with effect from 3-4-1986. The concerned workman made representation to the General Manager, Kapasara area and he Chairman-cum-Managing Director of M/s. E.C.L. but the management did not pay any attention to his representation. Thereafter an industrial dispute was raised by the union before the A.I.C.C. and on failure of the conciliation proceeding before him the Govt. of India referred this dispute

to this Tribunal for adjudication. On the above facts it is prayed that it may be held that the correct date of birth of the concerned workman is 7-1-1936 and that the action of the management is superannuating him with effect from 3-4-1986 was unjustified and that the concerned workman be reinstated with full back wages and other emoluments admissible to him.

The case of the management is that the concerned workman was employed in Kumardhuli colliery with effect from 18-1-1975 as Coal cutter and subsequently he became a pump khalasi. In Form B Register of the colliery maintained under the Mines Act and Mines Rules, the date of appointment of the concerned workman is mentioned as 18-1-1975 and his age on the date of appointment was recorded as 49 years. The entry in Form B Register indicating his date of birth/age was duly attested by the concerned workman by affixing his L.T.I. in token of confirmation of the correctness of the entries made therein. The age of superannuation fixed for employees of the management of M/s. ECL is 60 years. There is general tendency on the part of the workmen to indulge in manipulation towards the fag end of their career and to tamper with the records of the management in collusion of the lower functionaries of the management so that they could remain in service even after they have attained the age of superannuation. The management discovered that the original entry relating to the age of the concerned workman in Form B Register was tampered with and the age "49" was tampered to make it "39". The concerned workman knew that he was going to be superannuated in 1986 and hence near about that time he resorted to the tampering with the entry relating to his age in the Form B Register and thereafter made an application to the management about the so-called increase of his age by 10 years in Form B Register. Subsequently the concerned workman himself approached the management by his application dated 2-4-1985 that his case may be referred for the assessment of his age by the medical board. Implementation Instruction No. 37 dated 5-2-81 of JBCCI has laid down that such case of the workers should be referred to the Medical Board/age assessment committee for the determination of their correct age. Accordingly the concerned workman was referred to the age assessment committee and the said committee assessed the age of the concerned workman as 59 years as on 3-4-1985. The concerned affixed his signature on the report of the age assessment committee. As per age assessment made by the age assessment committee the concerned workman was superannuated with effect from 3-4-1986 on attaining the age of 60 years. On the above facts the management was fully justified in superannuating the concerned workman with effect from 3-4-1986 and accordingly it is prayed that the demand of the workman be rejected.

The point for consideration in this case is whether the superannuation of the concerned workman with effect from 3-4-1986 was justified.

The workmen examined three witnesses and the management also examined three witnesses in support of their respective case. The documents of the workmen are marked Ext. W-1 to W-10 and the

documents of the management are marked Ext. M-1 to M-8 in the case.

Admittedly the age of superannuation of a workman in M/s. ECL is 60 years. The entry of age of a workman in the statutory register of the colliery viz. Form B Register is a vital piece of document which find entry of the age/date of birth of concerned workman and on its basis the date of superannuation is calculated. So far the present case is concerned Form B Register of Kumardhuli colliery relating to the concerned workman has not been filed. But it is admitted by both the parties that here was tampering of the age of the concerned workman recorded in Form B Register. It is also admitted that there was superimposed entry in Form B Register of Kumardhuli colliery. According to the concerned workman there was "39" written in the age column of the concerned workman and according to the management "39" written in the age column of Form B Register relating to the concerned workman as on 18-1-1975. According to both "39" and "49" were superimposed one upon the another. As the Form B Register has not been produced it is not possible to say whether the age "39" was superimposed on "49" or whether "49" was superimposed on "39".

The workmen have filed Ext. W-1 which is Form II(PEN) of C.M.P.F. family Pension scheme, 1971 and Ext. W-2 which is Form A of Coal Mines Provident Fund in which the date of birth of the concerned workman had been noted as 7-1-1936. Ext. W-2 was prepared on 25-6-76 and it appears that Ext. W-1 also was prepared sometime in 1976 as the age of Laxmi Devi wife of the concerned workman is shown as 29 years both in Ext. W-1 and W-2. Moreover, Ext. W-1 was prepared sometime after 1971 as this Form Ext. W-1 was prepared in accordance with the C.M.P.F. Pension scheme which was of the year 1971. Thus none of these 2 Ext. W-1 and W-2 are of the period prior to the nationalisation of the Coal Mines. The concerned workman WW-2 has stated that he started working in Kumardhuli colliery in which his date of birth was recorded as 7-1-1936. According to the management the concerned workman was first appointed in the year 1975 and as such the management did not come in possession of Form B Register of Kumardhuli colliery in respect of the concerned workman. Ext. M-7 is the Form of report Age Assessment Committee relating to the concerned workman which was filled by the doctor MW-3 at the time the concerned workman had been sent to the age assessment committee for assessment of his age. In the said Form the date of appointment of the concerned workman is shown as 18-1-75 and his age in Form B Register is shown as 49 years as on 18-1-1975. In the W.S. of the management also it is stated in para-4) that the concerned workman was employed in Kumardhuli colliery with effect from 18-1-1975 as coal cutter and subsequently he became a pump khalasi and at that time his age was recorded in Form B Register as 49 years. The concerned workman WW-2 has stated in his cross-examination that he does not possess any paper to show that he entered in the service in the year 1957. The workmen have not examined any witness of Kumardhuli colliery to show that the concerned workman was working in

Kumardhuli colliery since 1957. Had the concerned workman been working in Kumardhuli colliery since 1957 he must have produced some paper in connection with his service since 1957 in Kumardhuli colliery. The C.M.P.F. paper Ext. W-2 and the Coal Mines Family Pension Scheme paper Ext. W-1 are not of the period of the private management of Kumardhuli colliery and have been prepared after the appointment of the concerned workman in Kumardhuli colliery after 18-1-1975. The identity card Ext. W-8 issued by the management of Kumardhuli colliery to the concerned workman shows his age of appointment as 18-1-1975 but the year of birth or his age is not noted in it and the column regarding the year of birth is blank. Thus Ext. W-8 also shows that the concerned workman was appointed in Kumardhuli colliery on 18-1-1975 but there was no mention of his age or date of birth in it. According to the management the date of birth shown in Ext. W-1 and W-2 as 7-1-1936 are not correct and they have been manipulated by the management in connivance with the lower functionaries of the management. WW-2 has himself admitted that he has no paper with him to show that his date of birth was 7-1-1936. On the contrary he has filed a school leaving certificate Ext. W-10 issued on 4-4-1986 to show that his date of birth recorded in the school was 10-10-86. Admittedly the certificate had not been filed before the management at the time the concerned workman entered in service as from Ext. W-10 itself it will appear that the certificate was issued on 4-4-1986. This was proved by WW-3. He has stated that the concerned workman had obtained the certificate Ext. W-10 from the School in his presence after the raising of the dispute on behalf of the concerned workman. The Head master who had granted the certificate has not been examined to prove the authenticity of Ext. W-10 and no document has been produced from the school to show the basis on which the date of birth of the concerned workman was shown in the certificate Ext. W-10.

The concerned workman WW-2 has stated that he was retired from service with effect from 3-4-1986 and he had met the Personnel Officer and told him that he was wrongly retired before time and then he was told by the Personnel Officer to go to the P.F. Clerk of the colliery and to obtain the date of birth from him. He has stated that he went to Shri B. Roy, P.F. clerk of the colliery who gave him a chit noting down the date of birth and he filed the said chit to the Personnel Officer and retained its photo copy which is Ext. W-7 in the case. The workmen did not examine Shri B. Roy, P.F. Clerk who is said to have written the chit Ext. W-7 and it is difficult to believe the authenticity and the correctness of the chit Ext. W-7 in the absence of the evidence of B. Roy or in the absence of the documents from which the date of birth of the concerned workman is stated to have been noted in the chit.

The documents discussed above regarding the age/date of birth of the concerned workman do not clearly establish that the date of birth of the concerned workman was 7-1-1936 or at his age was recorded as 49 years in Form B Register of Kumardhuli colliery

on 18-1-1975 or that the management had any interest in manipulating his age in Form B Register to make it 49 years.

Ext. W-4 is a representation filed by the concerned workman before the General Manager, Kapsara Area, ECL through the Agent/Dy C.M.E. Kumardhuli colliery dated 16-1-1986. It is stated in Ext. W-4 by the concerned workman that he was informed by the letter dated 23/26-11-1985 that he will be superannuated from 3-4-1986 and he stated that his age in Form B Register is tampered. It is further stated in the above letter that he was informed vide letter dated 4-7-1985 that the age assessment committee assessed his age as 59 years as on 3-4-85 and that his date of birth has been recorded in C.M.P.F. as 7-1-1936. He requested in the said letter that he may be referred to the age review committee for the determination of his age. It will thus appear from this letter that he was informed about his age as determined by the age assessment committee. Ext. M-2 dated 2-4-1985 is a petition written by the concerned workman to the Manager, Kumardhuli colliery in which he has stated that his age in Form B Register is not correctly recorded and therefore he requested to allow him to appear to the medical board for assessment of his correct age. It will thus appear from the admitted petition of the concerned workman that he himself had prayed to the management for the assessment of his age by the medical board and thereafter the management arranged for the determination of his age by the age assessment committee.

Ext. M-8 is dated 5-2-1981 which is the implementation instruction No. 37 of JBCCI under NCWA-II regarding the procedure for determination/verification of age of the employees. Para-B of the procedure for the determination/verification of age of the employees relates to the review/determination of date of birth in respect of existing employees. Para-1(b) shows that wherever there are variations in the age of a workman, a suitable provision for determination committee, medical board would be made and that the age determination committee/medical board has to be constituted by the management. It is further provided that for determination of the age, assessment committee/medical board may consider the evidence available with the colliery management adduced before it by the employee. It also provides that the age so assessed by the committee shall be communicated to the employee and that the decision of the committee regarding the assessment of age will be binding and final. It appears that the management had considered this provision of the instruction of the JBCCI and had also considered the application of the concerned workman in constituting the age assessment committee for the determination of the age as correct age could not be ascertained vide the entry in Form B Register due to over rating in the age of the concerned workman making a difference of 10 years. Ext. W-7 is the original paper relating to the age assessment committee by which the age of the concerned workman was assessed as 59 years on 3-4-1985. The concerned workman has admitted in his examination-in-chief that he was examined by the doctor of the colliery but no X-ray was taken at that time. He has also admitted that signature Ext. M-1 on Ext. M-6 which is the photo

copy of Ext. M-7 the signature of the concerned workman appears on its original Ext. M-7 also but it appears that while getting the document exhibited the signature of the concerned workman on photo copy was shown and the concerned workman admitted his signature which has been marked. Ext. M-1. The fact that the concerned workman had admittedly signed on the paper relating to the assessment of his age by the age assessment committee shows that the concerned workman was present before the age assessment committee and as stated by W-2 he was examined by the doctor and thereafter his age was assessed as 59 years on 3-4-1985. MW-8 Dr. Sujit Sarkar was the Area Medical Officer in Kapasara area in 1985 and was the member of the age assessment committee which had examined the concerned workman Narayan Lohar of Kumardhuli colliery on 3-4-85 along with other employees. The doctor MW-3 has stated that the other member of the age assessment committee were the Area Personnel Manager and the area Manager operation and they all have signed on the report of the age assessment committee Ext. M-7. The doctor MW-3 has stated that he examined Narayan Lohar in presence of the other committee members. He has stated that the age of the concerned workman was assessed as 59 years on 3-4-1985 and that the said assessment of age was informed to Narayan Lohar and thereafter his signature was obtained on the report. MW-3 has further stated that the age was assessed according to various parameters which are kept in separate sheets. It appears from his evidence that he made clinical examination and had not made any pathological examination. There was no dispute about the identity of the concerned workman before the age assessment committee as according to MW-3 the concerned workman had produced his identity card. The function of age assessment committee is somewhat different from the medical board. The examination by the Medical Board is purely on the basis of the medical examination whereas the assessment of age by age assessment committee is on the basis of the documents or evidence along with examination by the doctor who is a member of the age assessment committee. Thus it was not necessary in the age assessment committee to take X-ray in the classification test. Moreover, the age assessed by the age assessment committee is final and binding on both the parties as per Implementation Instruction No. 37 of JBCCI. It appears that the management had taken the necessary action for getting the age of the concerned workman assessed by the age assessment committee when it was found that the statutory document containing the age of the concerned workman was not reliable. As the age assessment committee has assessed the age of the concerned workman as 59 years on 3-4-1985. I hold that the age of the concerned workman was 59 years on 3-4-1985 and that he completed 60 years of age on 3-4-1986 which is the age of retirement of a workman in M/s. ECL.

In the result, I hold that the action of the management of Kumardhuli colliery under Kapasara area of M/s. ECL in superannuating the concerned workman Shri Narayan Lohar, Pump Khalasi with effect from

3-4-86 is justified and consequently the concerned workman is entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer.

[No. L-24012(101)86-D.IV(B)|IR(Coal-I)]

K. J. DYVA PRASAD, Desk Officer

नई दिल्ली, 13 सितंबर, 1989

का. आ. 2465.—केन्द्रीय सरकार, इससे संतुष्ट है कि लोकहित में यह घोषित है कि फासोराइट खनन उद्योग, जोकि शौधोगिक विद्याव अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची में प्रविस्त 23 द्वारा शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा घोषित किया जाना चाहिए।

अतः अब, शौधोगिक विद्याव अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (3) के उपखंड (vi) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छह मास की कानूनीति के लिए लोक उपयोगी सेवा घोषित करती है।

[का. स. एस-11017/4/85-डी-1 (ए)]

मन्त्री लाल, अवर सचिव

New Delhi, the 13th September, 1989

S.O. 2465.—Whereas the Central Government is satisfied that the Public interest requires that the Phosphate Mining Industry, which is covered by entry 23 in the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[F. No. S-11017/4/85-D.I(A)]

NANDI LAL, Under Secy.

नई दिल्ली, 15 सितंबर, 1989

का. पा. 2466.—शौधोगिक विद्याव अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में केन्द्रीय सरकार सिडिकेट बैंक बम्बई के प्रबंधतात्व के मंवंड नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट शौधोगिक विद्याव में केन्द्रीय सरकार शौधोगिक प्रधिकरण, नं. 2 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 15th September, 1989

S.O. 2466.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure in the Industrial dispute between the employers in relation to the Syndicate Bank Bombay and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri P. D. Apshankar, Presiding Officer.

Reference No. CGIT-2/30 of 1987

PARTIES :

EMPLOYERS IN RELATION TO THE MANAGEMENT OF SYNDICATE BANK, BOMBAY

AND

Their Workmen.

APPEARANCES :

For the Employers.—Shri P. M. Palshikar, Advocate.

For the Workmen.—Shri S. M. Dharap Advocate.

INDUSTRY : Banking : STATE : Maharashtra.

Bombay, dated the 20th July, 1989

AWARD

The Central Government by their Order No. L-12011/55/87-D.II(A) dated 18-8-1987 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act :—

“Whether the action of the management of Syndicate Bank, Zonal Office, Calcutta in entrusting the post of Special Assistant to Shri Xavier Amalraj who is junior to Shri Vishwanatha Pai, is justified? If not, to what relief Shri Pai is entitled?”

2. The case of the workmen Shri Vishwanatha Pai as disclosed from his statement of claim (Ex. 2)W) failed by the Syndicate Bank Staff Association, in short, is thus :—

The service conditions of the employees of Syndicate Bank are covered by various Awards, Bipartite Settlements and various circulars issued by the Bank from time to time. That Bank had issued a circular dated 27-10-1979. Clause 5 of the said circular is material, which runs thus :—

“Clause 5—Such of those clerks who are transferred to a different zone on request transfers will not be considered for posting of Special Assistant duties on permanent basis for a period of 3 years apart from the eligibility requirement of experience of 6 years. However, if an employee is transferred at the instance of management, then his/her seniority will stand protected in the new zone in which he/she is transferred.”

Thereafter the Bank had issued a circular dated 5-8-1983 stating that there were vacancies at the Port Blair Branch of the Bank, and invited applications

from the employees volunteering their service to serve there. By the said circular dated 5-8-1983, the Asstt. General Manager assured the employees that the employees who were prepared to be transferred at the said branch would get the protection of seniority. They were also to get the travelling allowance and the other allowances. In pursuance of that circular, the workman Shri Vishwanatha Pai applied for transfer to Port Blair Branch. Thereafter, an order was passed by the Bank transferring Shri Pai to the Port Blair Branch to work there until further order. By another latter dated 3-12-83 Shri Pai was informed that in modification of the earlier order dated 14-11-1983, his transfer to Port Blair was considered as general transfer and that he would be entitled to all the benefits mentioned in the circular dated 5-8-1983. A seniority list was published by the Calcutta Zone on 4-4-1984 regarding the clerks eligible for entrustment of Special Assistant duties as on 31-3-1984 at Andaman and Nicobar Islands. The name of Shri Pai appeared in that seniority list at S. No. 7. As such Shri Pai was eligible for being considered for appointment as Special Assistant, and allotment of the necessary post to him in that respect. However, to his surprise, he found that an order dated 19-4-84 was issued by the Calcutta Zonal office of the Bank posting one Shri Xavier Amalraj as Special Assistant to Port Blair branch though his name was not appearing in the said seniority list. Thereafter Shri Pai made the necessary representations to the Bank for denying him the said post. However his representations were not duly considered by the Bank. While Shri Pai is an active member of the Syndicate Bank Staff Association, the above said Shri Xavier Amalraj is an active member of the Syndicate Bank Employees Union which is a real union, in good books of the Bank management. The Union in question then raised an industrial dispute with the Assistant Labour Commissioner regarding denial of the post of Special Assistant to Shri Pai. The Conciliation proceedings, however, failed. Thereafter the Central Government made the reference, as above. Therefore, according to the Union of Shri Pai, the action of the Bank management in not entrusting the post of Special Assistant to Shri Vishwanatha Pai and in entrusting it to his junior i.e. Xavier Amalraj is not just and proper. The said circular dated 27-10-1979 forms part of the service conditions of all the employees. By denying the said post to Shri Pai, the Bank management has committed breach of the provisions of Section 9-A of the Industrial Disputes Act. The name of Shri Xavier Amalraj did not appear in the seniority list of clerks who were entitled for being considered for the post of Special Assistant. By assigning the said post to Shri Xavier Amalraj, the Bank management has indulged in unfair labour practice. The Union, therefore, prayed that this Tribunal should declare the said action of the Bank as violative of Section 9A of the Industrial Disputes Act and in breach of service conditions fixed as per circulars dated 27-10-1979 and 5-8-1983, and Shri Pai should be declared to be entitled to the said post and he should be granted all the necessary benefits.

3. The Syndicate Bank by their written statement (Ex. 3)M) opposed the said claim of the Union and in substance contended thus :—

The Bank had issued the circular dated 5-8-1983 that the Bank had a few vacancies at its

Island branches, and inviting applications from the employees volunteering to render their services there. As per that circular, the employees volunteering their services were entitled to protection of their seniority and payment of travelling allowance, and re-transfer to home state after about 2 years' service at the Island Branches. The workman Shri Pai accordingly applied for such a post and he was transferred to Port Blair Branch to work there until further orders. His posting, therefore, was on temporary basis. As per the said circular, the seniority of the employees volunteering their services at the Island Branches was to be protected in their respective parent region/zones. As such, the question of protection of their seniority in the Island did not arise. This was made clear by the Bank by their another circular dated 16-10-1984. That circular was by way of clarification and did not amount to change in the policy matter. The Circular dated 27-10-1979 did not apply in the case of the present workman Shri Pai, as he was not transferred to Port Blair Branch on permanent basis, but was transferred there temporarily only for a period of two years. As such, the Bank did not alter the service conditions of the employees by issuing any such circular. The post of the employees at the Island Branch was only for a temporary period till regular recruitment was made through due process of law. The employees who opted for transfer to Island Branches were termed as volunteers. The employees who volunteers themselves to serve at Island Branches were given the benefit of compensatory allowance to the extent of 33½% of their emoluments.

4. The Bank management further contended in their written statement thus :—

The said workmen Shri Pai never became eligible to the entrustment of the duties of Special Assistant. He had joined the service in the Bank on 22-1-1979 in the Bombay Region of the Bank. In the seniority list it was clearly mentioned that "in these cases, as the employees are volunteers from the Main land, their seniority in the respective regions from which they came are to be protected, that entrustment of Special Assistant duties on a permanent basis will, therefore, be depending on their seniority in those regions (i.e. when they become eligible for entrustment as per their seniority list)." The seniority of the workman for entrustment of the work of Special Assistant to him, was to be considered having regard to his seniority in the region. As per the seniority list of the employees in Bombay Region, the workman Shri Pai was not then eligible for the entrustment of the post of Special Assistant. Shri Xavier Amalraj was properly entrusted with duties of Special Assistant as per the seniority list and as per the rules. Therefore,

the Bank management prayed for the dismissal of the claim of the Union, and prayed that the action of the Bank in question be held just and proper.

5. The Issues framed at Ex. 11 are :—

- (1) Whether the action of the management of the Syndicate Bank in not granting the post of Special Assistant to Shri Vishwanatha Pai was against the Memorandum of understanding dated 27-10-1979 and against the provisions contained in the circular dated 5-8-1983?
- (2) Whether the circular dated 27-10-1979 does not apply to the facts of the present case?
- (3) Whether the name of Shri Xavier Amalraj did not appear in the seniority list of clerks entitled to be considered for the post of Special Assistant, when he was promoted to that post.
- (4) Whether the action of the management of the Syndicate Bank, Calcutta, in entrusting the post of Special Assistant to Shri Xavier Amalraj, who is junior to Shri Vishwanatha Pai, is justified?
- (4A) Whether the circular No. 5521 : 0089 : PD: IRS dated 16-10-1984 applies to the present dispute?
- (4B) Whether it is in violation of Section 9A of the Industrial Disputes Act?
- (4C) Whether the retrospective effect can be given to it, and if so, whether it is justified?
- (5) To what relief or any, Shri Pai, is entitled?
- (6) What Award?

6. My findings on the above Issues are :—

- (1) Yes
- (2) It applies
- (3) Yes
- (4) No
- (4A) No
- (4B) Yes
- (4C) Issue does not survive.
- (5) As per Award below :—
- (6) As per Award.

REASONS

ISSUES Nos. 1 to 6

7. In this case, the workman Shri Vishwanatha Pai filed his affidavit in support of his case at Ex. 14/W. He was cross-examined on behalf of the management. The Bank management filed the affidavit of Shri B. R. Pai, Dy. Personnel Manager at Ex. 16/M in support of the case of the Bank. He was also cross-examined on behalf of the Union. The workman Shri Vishwanatha Pai stated in his affidavit that he joined the service

Bombay region. However, as noted above, the transfer of Shri Pai has been treated by the Bank, not at his request transfer but as a general transfer i.e. transfer at the instance of the Bank at the Port Blair Branch. Therefore, the said note below the seniority list does not apply to the workman Shri Pai. As per the circular dated 27-10-1979 (Ex. 18|W) if an employee is transferred at the instance of the Bank, then his seniority stands protected in the new zone in which he is transferred. As such, the seniority of Shri Pai was to be protected at the Port Blair Branch. As noted above, Shri Pai and Shri Xavier Amalraj were holding the posts of same status i.e. of clerks when they were transferred to Port Blair Branch. Shri Pai was senior to Shri Xavier Amalraj in service. The name of Shri Xavier Amalraj did not appear anywhere in the seniority list. As such, the post of Special Assistant should have been assigned to Shri Vishwanatha Pai in preference to Shri Xavier Amalraj. It is true that while Shri Pai is standing at Serial No. 7 in that list, there were six other employees above him in that list. However, we are concerned in the present case only as regards two employees, namely, Shri Vishwanatha Pai and Shri Xavier Amalraj, and as to the question who was entitled to the post of Special Assistant between the two. I, therefore, find that Shri Vishwanatha Pai was entitled to the post of Special Assistant in preference to Shri Xavier Amalraj. According to the Bank management, Shri Xavier Amalraj was entitled to the said post as per the seniority list of the Calcutta Region. However, no documentary evidence was placed on record in that respect. It is quite likely that the members of employees due for the post of Special Assistant in the Calcutta Region might be few, as compared with the number of employees in the Bombay Region due for the post of Special Assistant, and hence Shri Xavier Amalraj might be standing as the seniormost employee in the seniority list of the Calcutta Region, even though he was junior to Shri Vishwanatha Pai. However, the real criteria is entrustment of Special Assistant post at Port Blair branch where both these employees were transferred. As per the Circular dated 27-10-1979, as the transfer of Shri Vishwanatha Pai was a transfer at the instance of the Bank management, he was entitled to the said post.

9. The management is now relying upon the circular dated 16-10-1984 (Ex. 6|M). This circular dated 16-10-1984 was issued by the Bank management after the seniority list as above was prepared on 31-3-1984, and after the workman Shri Pai was denied the post of Special Assistant and after the said post was granted to Shri Xavier Amalraj. By this circular, the Bank management issued certain guidelines for the observance in the Regional offices. This circular stated that the employees who volunteer to serve in the Island branches were not eligible for regular entrustment of special assistant duties in the Island branches during their posting there, but they would be eligible for temporary entrustment according to their seniority in the branch during the leave period of regular Special Assistant. As noted above, the workman Shri Pai cannot be regarded as a volunteer, as his transfer was regarded as a general

transfer. Further, he was eligible for temporary entrustment of the said post according to his seniority in the Port Blair branch during the leave period of regular Special Assistant, as the regular posts were to be filled in accordance with the rules. The witness for the Bank admitted in his cross-examination that this circular dated 16-10-1984 (Ex. 6|M) was not circulated amongst the employees of the Bank. The workman Shri Pai stated in his evidence that he came to know about the circular dated 16-10-1984 for the first time at the time of cross-examination. I, therefore, find that this circular dated 16-10-1984 was issued by the Bank in contravention of the provisions of Section 9A of the Industrial Disputes Act. As per Section 9A of that Act, no employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change (a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or (b) within twenty-one days of giving such notice. Conditions of service for the change of which notice is to be given, relate to payment of wages, which is included in the Fourth Schedule. As such, notice should have been given by the Bank to its employees. As such it is not verdict and binding on the workman Shri Vishwanatha Pai. Further, this circular is inconsistent with the earlier circular dated 27-10-1979 (Ex. 18|W). It stated that as regards the employees who are transferred at the instance of the Bank management, their seniority would be protected in the new zone. Therefore, for the above said reasons and in the circumstances discussed above, I find that the workman Shri Vishwanatha Pai should have been granted the duties of Special Assistant, and that the action of the Bank management in not granting that post to Shri Vishwanatha Pai was against the Memo. of understanding dated 24-10-1979 and the subsequent circular dated 5-8-1983. Issue No. 1 is, therefore, found in the affirmative.

10. As discussed above, the circular dated 27-10-1979 did apply to the facts of the present case. Issue No. 2 is found accordingly. I find that the name of Shri Xavier Amalraj did not appear in the seniority list of clerks entitled for the post of Special Assistant, as prepared for the zone covering the Port Blair Branch. Issue No. 3 is found in the affirmative. As noted above, the circular dated 16-10-1984 has been issued in violation of the provisions contained in Section 9-A of the Industrial Disputes Act. Issue No. 48 is found in the negative. Issue No. 4A also is found in the negative. As such, no question of giving any retrospective effect to that circular dated 16-10-1984, survives. In the result, the action of the management of the Syndicate Bank, Calcutta, in entrusting the post of Special Assistant to Shri Xavier Amalraj who is junior to Shri Vishwanatha Pai, is not justified. Issue No. 4 is found in the negative. In the result, even though the workman Shri Vishwanatha Pai, who is now already transferred back to Bombay Region, cannot now hold the post of Special Assistant at the Port Blair Branch, is entitled to the allowance of the post of Special Assistant from the date the post was assigned to Shri Xavier Amalraj, till

Shri Pai left the Port Blair Branch on his transfer to Bombay Region. Issue No. 5 is found accordingly. Hence the following Award is passed.

AWARD

The action of the management of the Syndicate Bank, Calcutta, in entrusting the post of Special Assistant to Xavier Amalraj, who is junior to Shri Vishwanatha Pai, is not justified.

The Bank management is hereby directed to pay the special allowance of the post of Special Assistant to the workman Shri Vishwanatha Pai from the date

the said post was assigned to Shri Xavier Amalraj till Shri Vishwanatha Pai left the Port Blair branch on his re-transfer to Bombay region.

The parties to bear their own costs of this reference.

P. D. APSHANKAR, Presiding Officer.

[No. L-12011/55/87-D.II(A)]

N. K. VERMA, Desk Officer

of the Bank in June 1977 at the Pali Hill Branch, Bombay. The witness for the management admitted in his cross-examination that the workman Shri Pai joined the Bank on 14-6-1977, and the other workman Shri Xavier Amalraj joined the service in the Bank on 17-4-1978. As such, the workman Shri Pai is admittedly senior to other employee Shri Xavier Amalraj by 10 months. Ex. 19|W is a copy of the circular dated 5-8-1983 issued by the Bank management. From this circular it is seen that, there were a few vacancies of clerks at the Island branches of the Bank and they required the services of a few clerks to work in the Island branches. They had already placed an indent with the Bank Service Recruitment Board for filling up the vacancies in the said branches. However, till such time the posts are filled in, they wanted volunteers from other regions to serve in those branches. Those volunteers were entitled to the following benefits, i.e. protection of seniority, payment of travelling allowance on re-transfer, re-transfer to home state as early as possible after two years of service in the Island branches and compensatory allowance as per the rules. As per this circular, the employees volunteering their services in the Island Branches were to serve there for about two years. It is true that this circular is silent about the entrustment of the Special Assistant Duties to those volunteers, and that the seniority as regards their parent region was to be protected. As per this circular dated 5-8-1983, the workman Shri Vishwanatha Pai applied for his transfer to Island Branch. By order dated 14-11-1983 (Ex. 20|W) Shri Pai was transferred from Pali Hill Branch, Bombay, to the Port Blair Branch. By this order he was informed that no T.A. would be paid to him, since the transfer was at his request. However, the Bank management issued a further order dated 3-12-1983 (Ex. 21|W) modifying the earlier order dated 14-11-1983 and informed him that his transfer to Port Blair Branch is considered as General Transfer, and he would be entitled to all the benefits as per the Office circular dated 5-8-1983. As such, the transfer of Shri Vishwanatha Pai was a transfer at the instance of the Bank management and it was not his request-transfer. Ex. 24 is a zerox copy of the Staff Circular dated 24-10-1969 regarding Travelling Allowance and joining time. This circular Ex. 24 was issued earlier to the transfer of Shri Pai to Port Blair Branch in February 1984. Clause 9 of this Staff Circular (Ex. 24) states that temporary transfer will not be made ordinarily for a period exceeding a month, that, if however, an employee transferred to a branch temporarily has to continue there for a period exceeding a month, steps may be taken to make it a regular transfer. Thus, as per this circular, temporary transfer means a transfer for a period of one month, and in case the transfer is for a period exceeding a month, his transfer would be treated as a regular transfer, and steps are to be taken to make it a regular transfer. The witness for the management also admitted in his cross examination that a temporary transfer is for a month. As noted above, the posting of employees at Port Blair branch was for a period of two years, and as such, the transfer of the workman to Port Blair Branch cannot be regarded as a temporary transfer, but must be regarded as his regular transfer. Further, as noted above, the transfer of the workman Shri Vishwanatha Pai was treated by the Bank management's general transfer.

8. It will be proper to read and interpret the true meaning of the circular dated 27-10-1979 (Ex. 18|W). This was in pursuance of an agreement that had taken place between the Bank management and the employees. Clause 5 of that circular states that, 'such of those clerks who are transferred to a different zone on request transfer, will not be considered for posting of Special Assistant duties on permanent basis for a period of 3 years apart from the eligibility requirement of experience of 6 years, that however, if an employee is transferred at the instance of management, then his|her seniority will stand protected in the new zone in which he|she is transferred.' Thus, in the present case, the transfer of the workman Pai to the Port Blair branch was made at the instance of Bank management, and as such, his seniority in the transferred zone is to stand protected at the Port Blair branch. According to the Bank management, this circular dated 27-10-1979 (Ex. 18|W) does not apply to the facts of the present case, and the workman Shri Pai's demand cannot be upheld. The said circular was issued in modification of the agreement between the Bank management and its employees, and as such, this circular is binding on them. The Regional office of the Bank at Calcutta by their order dated 19-4-1984 (Ex. 23) transferred the other workman Shri Xavier Amalraj to Port Blair Branch as a Special Assistant, until further orders. Thus Shri Amalraj was entrusted with the duties of Special Assistant in April 1984 at Port Blair Branch. The seniority list of clerks eligible for entrustment of Special Assistant duties as on 31-3-1984 (A. & N. Islands) is at Ex. 22|W. This seniority list was issued before the appointment of Xavier Amalraj as Special Assistant in April 1984. The name of the workman Shri Pai is appearing at S.No. 7 in that list prepared for the entrustment of the Special Assistant duties as on 31-3-1984. Even though Shri Xavier Amalraj who was assigned the duties of Special Ass'tt. in April 1984, his name did not appear in that seniority list as on 31-3-1984. As noted above, the workman Shri Vishwanatha Pai had joined the service 10 months earlier than Shri Xavier Amalraj, and as such, the workman Shri Pai was senior to Shri Xavier Amalraj. The workman Shri Pai stated in his evidence that he and Shri Xavier Amalraj were working as clerks at Port Blair branch upto May 1984. Thus, prior to the assignment of the duties of the Special Assistant to Shri Xavier Amalraj, both the workman Shri Pai and Shri Xavier Amalraj were working as clerks, and as such, were holding the posts of same nature. As noted above, Shri Vishwanatha Pai is senior to Shri Xavier Amalraj. The name of Shri Xavier Amalraj did not appear in the said seniority list. Even then Shri Xavier Amalraj came to be appointed as a Special Assistant by the Calcutta Regional office of the Bank. In the said seniority list (Ex. 22|W) there is a note below the names of Shri Pai and some other employees that as these employees are volunteers from the main land, their seniority in the respective region from which they came, is to be protected, and that the entrustment of Special Assistant duties on a permanent basis will, therefore, be depending on their seniority in those regions. Therefore, according to the Bank management, the workman Shri Pai was to get the Special Assistant duties as per his seniority in the